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BEFORE THE  
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

IN THE MATTER OF: )  
REGULAR MONTHLY BUSINESS )  
MEETING )  
\_\_\_\_\_ )

TRANSCRIPT OF PROCEEDINGS

May 23, 2000

9:30 A.M.

Visalia City Hall  
707 West Acequia Avenue  
Visalia, California

REPORTED BY:  
Tern L. Emery,  
CSR No. 11598  
Our File No. 1-62320

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APPEARANCES:

MR. DANIEL EATON, CHAIRMAN  
MR. STEVEN R. JONES, BOARD MEMBER  
MR. JOSE' MEDINA, BOARD MEMBER  
MS. LINDA MOULTON-PATTERSON, BOARD MEMBER  
MR. MICHAEL PAPARIAN, BOARD MEMBER  
MR. DAVID A. ROBERTI, BOARD MEMBER

STAFF PRESENT:

MR. RALPH CHANDLER, EXECUTIVE DIRECTOR  
MS. KATHRYN TOBIAS, LEGAL COUNSEL  
MS. LISA DOMINGUEZ, BOARD SECRETARY

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#### Local Assistance and Planning Compliance

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ITEM 37: Consideration of Staff Recommendation Regarding Completion of Compliance Order Number IWMA BR99-53; and on the 1997/1998 Biennial Review Findings for the Source Reduction and Recycling Element and Household Hazardous Waste Element, for the City of Anderson, Shasta County

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ITEM 44: Consideration of the Yuba/Sutter Regional Waste Management Authority's Request for an Extension to Compliance Order Program Implementation Due Dates

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- B. Kern County: McFarland
- C. Los Angeles County: Artesia, Carson, Hidden Hills
- D. Monterey County: Monterey County Unincorporated, Pacific Grove, Sand City, Soledad
- E. Napa County: Napa County Unincorporated
- F. Riverside County: Beaumont, Cathedral City, Murietta, Rancho Mirage
- G. San Joaquin County: Tracy
- H. San Mateo County: Brisbane, South San Francisco
- I. Santa Barbara County: Santa Maria
- J. Santa Clara County: Palo Alto, Santa Clara County Unincorporated, Saratoga, Sunnyvale
- K. Shasta County: Shasta Lake, Shasta County Unincorporated
- L. Trinity County: Trinity County Unincorporated

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1 VISALIA, CALIFORNIA, MAY 23, 2000 - 9:30 A.M.

2 \* \* \* \* \*

3 CHAIRMAN EATON: Good morning, everyone, and  
4 welcome to the May 23rd meeting of the California  
5 Integrated Waste Management Board here in lovely Visalia.  
6 If you feel it's necessary this morning because of the  
7 heat and so on and so forth, please feel free to take  
8 your coats off and enjoy.

9 We've got a long agenda. We would appreciate  
10 your cooperation today in moving through the agenda as  
11 quickly as possible so that if you have any comments or  
12 would like to speak on any subject matter, if you could  
13 do so in a precise manner, we have a number of items we  
14 would like to get through today. And tomorrow morning  
15 we'd like to be able to move through most of that to 1066  
16 and a few remaining items so we can be out of here by  
17 midday.

18 With that, Madam Secretary, please call the roll.

19 BOARD SECRETARY: Board Members Jones.

20 BOARD MEMBER JONES: Here.

21 BOARD SECRETARY: Medina.

22 BOARD MEMBER MEDINA: Present.

23 BOARD SECRETARY: Moulton-Patterson.

24 BOARD MEMBER MOULTON-PATTERSON: Here.

25 BOARD SECRETARY: Papanian.

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1 BOARD MEMBER PAPARIAN: Here.

2 BOARD SECRETARY: Roberti.

3 BOARD MEMBER ROBERTI: Here.

4 BOARD SECRETARY: Chairman Eaton.

5 CHAIRMAN EATON: Here.

6 I should say now that we have established a  
7 quorum that I would like to welcome the next senior  
8 member, Mr. Jose' Medina, to the Board, and I guess  
9 shortly thereafter by a short amount of time -- but in  
10 the big league I guess it's still enough seniority --  
11 Mr. Mike Paparian, who is the environmental appointee.  
12 We welcome you both, and I think you'll find it a most  
13 enjoyable appointment and look forward to finally having  
14 six members on the Board, having a little discussion, a  
15 little dissension, a little cooperation, and a little  
16 progress in terms as we move through. And I think we  
17 need those kinds of voices and I know that the four of us  
18 have shouldered quite a few of the subject matter here  
19 and we're looking forward if you haven't already seen one  
20 of us trying to dump one of our subject matters here in  
21 your lap, we will do so shortly.  
22 So anything you would like to say before we  
23 begin, Mr. Medina?

24 BOARD MEMBER MEDINA: Thank you, Mr. Chair, and  
25 I just want to say it's a pleasure to be here with you

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1 and I look forward to serving the Governor and the state  
2 of California and this Board and the citizens of  
3 California on these very important issues.  
4 It's a pleasure to be here in lovely Visalia.

5           CHAIRMAN EATON: Mr. Paparian.

6           BOARD MEMBER PAPARIAN: Thank you. I also look  
7 forward to working with my fellow board members and  
8 learning a lot from you, as well as everybody on the  
9 staff and other interested parties involved in waste  
10 issues.  
11 I should mention that I just started yesterday.  
12 I have had the opportunity to look through the Board  
13 binder, but there may be some occasions where I choose to  
14 abstain if I don't feel comfortable with my depth of  
15 knowledge on an issue, but I'll do my best to be a quick  
16 study for the next meeting.  
17 I also had the briefing on the ex parte  
18 communications, so that started for me yesterday in terms  
19 of officially starting the job. So bear with me if I  
20 stumble a little bit in terms of not doing things quite  
21 in the right way.

22           CHAIRMAN EATON: Speaking of ex partes, now as  
23 part of our remarks, we will start with ex parte  
24 communications and so we will start off to help our new  
25 members.

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1 Mr. Jones, any ex parte communications to  
2 report?

3 BOARD MEMBER JONES: The only two would be  
4 Mr. Cupps this morning talking about emergency  
5 regulations and our fine LEA from (inaudible) County  
6 talking about those same regulations, and a few other  
7 folks today.

8 CHAIRMAN EATON: Ms. Moulton-Patterson.

9 BOARD MEMBER MOULTON-PATTERSON: Thank you,  
10 Mr. Eaton. I'm up-to-date with the exception of  
11 officials at Disneyland. I attended the environmentality  
12 awards there on Friday and spoke with Mr. Kim Murphy, who  
13 is the environmental officer at Disneyland, and others.  
14 I also met with Mr. George Larsen and we  
15 discussed CAMs and he gave me a little briefing on that,  
16 and I had a telephone message, a voice mail from Miriam  
17 Gordon of the Coastal Commission in regard to Item 30.  
18 And that was it, Mr. Eaton.

19 CHAIRMAN EATON: Senator Roberti.

20 BOARD MEMBER ROBERTI: Yes, Mr. Chairman. I  
21 have a communication from Mr. John Cupps regarding  
22 emergency regulations for nonhazardous, nonputrescible  
23 waste disposl, and as well a communication from  
24 Mr. Michael Schier from Riverside County Waste Management  
25 Department regarding extensions pursuant to SB 1066.

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1           CHAIRMAN EATON: All right. Mr. Paparian, any  
2 additional ones to report that haven't already been  
3 reported?

4           BOARD MEMBER PAPARIAN: I met this morning Scott  
5 Gordon from Salinas and George Larsen, just a greeting  
6 kind --

7           CHAIRMAN EATON: A meet-and-greet as we call it.

8           BOARD MEMBER PAPARIAN: Meet-and-greet. I rode  
9 down yesterday with John Cupps. We had a lot of general  
10 discussions, nothing very specific to the agenda. I also  
11 have the same communication from John Cupps.

12          CHAIRMAN EATON: Keep your jacket on. I  
13 understand he bruises and beats you up pretty good on the  
14 long ride.  
15 (Laughter)

16          CHAIRMAN EATON: Mr. Medina.

17          BOARD MEMBER MEDINA: Thank you, Mr. Chair. I  
18 attended the May 15th and 16th conference of California's  
19 rigid plastic packaging that was sponsored by the Waste  
20 Board. The conference took place in San Diego. Also met  
21 with Mexican businessmen on border issues relating to  
22 wood waste and tire recycling. I met with the City of  
23 San Diego Department of Environmental Health and toured  
24 their Ridge Haven green building on the 38th Street burn  
25 dump site.

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1 Also received a communication from Mr. John  
2 Cupps, did meet-and-greets here this morning with Gabriel  
3 and Arthur Pena of Pena Disposal, Mr. Steven Johnson,  
4 Scott Gordon, George Larsen, Joe Montoya and earlier with  
5 Mr. Mel Esaguy (phonetic).

6           CHAIRMAN EATON: All right. And I just have a  
7 few. Mr. Flores, who represents part of this area, Wasco  
8 Union High School District; Jody Sparks regarding  
9 permits; also John Cupps, a letter regarding Item Number  
10 23 on today's agenda; and an oral conversation with Susan  
11 (inaudible) regarding making a difference.  
12 For those of you who are new to our board  
13 meetings and are in the audience, if you desire to speak  
14 on any item today, if you'll kindly fill out a request  
15 form, and since it's not our usual room where are the  
16 forms? They're right outside. If you'll fill out one of  
17 those slips with the appropriate information as well as  
18 the appropriate item number and bring it forward to  
19 Ms. Dominguez in the front and we'll make sure you will  
20 be heard at the time the item is heard on today's agenda.  
21 With that, I'll start on my left with Mr. Jones.  
22 I'm just doing that initially today so that Mr. Paparian  
23 and Mr. Medina can get into the flow of things with  
24 regard to today's business.  
25 Mr. Jones, any additional reports that you would



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1 like to share with us this morning?

2 BOARD MEMBER JONES: Just two, Mr. Chairman.

3 On April 26th, for that period of time

4 thereafter, celebrated CRRC's 25th anniversary in Hawaii

5 on my own nickel. On my own nickel. Actually celebrated

6 my birthday over there and gave a couple of talks on

7 recycling in the 21st century and the 939 mandates, but

8 we were joined by Kip Lipper and Assemblywoman Carrie

9 Mazoni (phonetic) and it was a good event. It was

10 attended by 300 people and that was an association that I

11 was a member of for over 18 years.

12 And then I was down in Palm Springs at SWANA --

13 tough duty, Hawaii to Palm Springs -- for the SWANA

14 founding chapter symposium and I want to congratulate our

15 staff, Jill Jones and Frank Simpson and Daryl Petker and

16 Georgianne Turner and there was a couple of others that

17 were there that were showing off the profiles and talking

18 about the new board programs that -- I see some SWANA, I

19 see some of the guys that have to put it on next year.

20 I think it was well-received. We had a lot of

21 people -- I actually worked with booth and thought it was

22 very well-received and people really appreciated what

23 staff was putting together, and I think staff needs to

24 know that.

25 And unfortunately I missed the -- due to some

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1 conflicting meetings, I missed the buy recycle fair, but  
2 I know all my colleagues made it and I'll let them talk  
3 about how good, but I've heard nothing but good things  
4 about that.

5 CHAIRMAN EATON: Ms. Moulton-Patterson.

6 BOARD MEMBER MOULTON-PATTERSON: Thank you,  
7 Mr. Eaton.

8 On April 20th, I attended one of our AB 75  
9 workshops in Whittier and staff did a fantastic job  
10 presenting information to what could have been a somewhat  
11 hostile audience. They really, really did a terrific  
12 job. There was a lot of enthusiasm from the community  
13 colleges and state agencies over there.  
14 Also attended in Santa Rosa an RMDZ workshop,  
15 (inaudible) workshop, and that's for the zoning  
16 administrators, which was new to me and very interesting.  
17 Also attended the SWANA annual conference, spoke  
18 to the legislative task force. Attended in Irvine the  
19 children's drinking water festival which our used oil  
20 money contributes to and 3,000 to 4,000 third and fourth  
21 graders over two days learning about water and that was  
22 very interesting.

23 On Sunday, May 7th, I gave the CalMAX connection  
24 of the year award to the City Farmers Nursery in San  
25 Diego. As Mr. Jones mentioned, the recycled products

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1 trade show I thought was a fantastic *success*. Everyone  
2 on our staff worked so hard and it was so well-attended,  
3 and it was very interesting to me to see all the  
4 different products.  
5 I also gave a speech in San Diego to the  
6 Industrial Environmental Association, talking to the  
7 businesses about what they could do and about our WRAP  
8 awards. As Mr. Medina, we just, I think, missed each  
9 other but we were in the city of San Diego and I visited  
10 Ridgecrest, a green building which I know many of you  
11 have already been to and that was very impressive to me.  
12 And also took the time to go over to the 38th Street burn  
13 dump site to see for myself.  
14 Lastly in my home town on May 12th I visited  
15 Rainbow Disposal. I had seen their MRF many times. As  
16 mayor pro tern, I helped dedicate that MRF, but they added  
17 a new leg or whatever of the MRF that deals with just  
18 strictly commercial. And I -- when we're in Huntington  
19 beach in August, I think you might like to see it because  
20 I think it was great in addressing some of the commercial  
21 waste that we had been talking about  
22 (inaudible)  
23 Thank you, Mr. Eaton.

24 CHAIRMAN EATON: Senator Roberti.

25 BOARD MEMBER ROBERTI: Thank you, Mr. Chairman.

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1 In the months of April and May, I spent some time in  
2 southern California as well as in Sacramento and made a  
3 number of visits and speeches.  
4 I would like to start with the last one, which  
5 was at the household hazardous waste conference, which  
6 this board co-sponsored in Lake Arrowhead. And I'm happy  
7 to report that the statewide household hazardous waste  
8 conference was the site of our Board receiving Cal/EPA's  
9 policy award which is designed to recognize an agency or  
10 organization that has implemented a policy to promote  
11 pollution prevention on the use of recycled materials.  
12 The agency bestowed the honor in recognition of  
13 the Board's grant criteria which we passed a few months  
14 ago that now give preference points to local agencies  
15 with the rerefined oil and/or green procurement policy in  
16 place. And this is just one example of the Board's  
17 leadership in greening government.  
18 This is our award. I don't know if it's a sea  
19 lion or a baby seal, but whatever. I assume it's a baby  
20 seal. And I think we should have a little cabinet  
21 somewhere where we keep this sort of recognition, to let  
22 the world know that we're on our toes and also very  
23 pleased when we're so recognized.

24           CHAIRMAN EATON: Perhaps we can have  
25 Mr. Chandler explore the availability of perhaps a  
20

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1 recycled wood with recycled *glass* cabinet that we could  
2 display that in our new building when we get there. So  
3 perhaps we can see if there's some products out there  
4 that can utilize that and start our first awards.

5           BOARD MEMBER ROBERTI: Very good, Mr. Chairman.  
6 I really think that that is something we ought to do.  
7 In addition, I made two other speeches. One,  
8 the dedication of the extension on the landfill at Avalon  
9 in Catalina island, which was very nice. Well, the  
10 landfill extension wasn't necessarily nice but very  
11 necessary, but having never been to Catalina in my entire  
12 life, strange as that may seem -- I've never been to Las  
13 Vegas either. I enjoyed the hospitality and the  
14 enthusiasm that the people had for environmental  
15 considerations in the preparation of their landfill.  
16 In addition, I spoke in April to the California  
17 Waste Association, a dinner meeting, and the various  
18 waste association meetings I would recommend to the other  
19 members, as I'm sure you have, but to the new members.  
20 It's a good way for us of acquainting ourselves with the  
21 needs and concerns of people who are our stakeholders, as  
22 we put it, and gives us a chance to get to know them on a  
23 more informal basis and what their problems are.  
24 I visited two landfills, one active in Whittier  
25 and one inactive in Toyon County in Toyon, a landfill in

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1 the Los Angeles area which is not too far from my house,  
2 but it really made me feel that that is one thing maybe  
3 we have not spent enough time on, and that is the  
4 preparations that go into preparing a landfill in the  
5 process of being closed for its future and eventual use.  
6 And I hope that in the coming months that is something  
7 that the Board will develop some time in dealing with  
8 because obviously not only do we want to conserve space  
9 so that we don't create more and more landfills, but we  
10 want to give some consideration, as we do, but detailed  
11 consideration to what to do once these landfills are  
12 closed.

13 A nearby landfill to Toyon, Bishop's Canyon at  
14 Alesion Park in Los Angeles, is now a soccer field and a  
15 to-be very heavily used field, which happens in landfills  
16 throughout the state, but it's very exciting that we can  
17 put these things to use and really hope to give some time  
18 and attention to what to do in detailed fashion.

19 One of the things I have really found  
20 interesting since I've become a member of the Board is to  
21 go to the various companies that have loans from our RMDZ  
22 program because I never cease to amaze at the ingenuity  
23 and creativity of people who use their ideas and their  
24 initiative to come up with new ways of creating products  
25 out of recycled material. And since we have two new

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1 members of the Board, it's absolutely fascinating what  
2 can be done and how beautiful the products are, and  
3 hopefully we can get them to be sold a little cheaper  
4 but, of course, everything doesn't happen at once.  
5 It's just terribly interesting, and I certainly  
6 would recommend that as something because we're  
7 constantly coming up with people who have ideas and  
8 trying to find methodologies to make loans to them. So I  
9 went to, I believe it was, three sites where we have  
10 loans and I won't go into the details of it except to say  
11 for the most part I think our money is well spent.

12           CHAIRMAN EATON: Mr. Paparian, anything? You  
13 started yesterday.

14           BOARD MEMBER PAPARIAN: Only started yesterday,  
15 so other than my swearing in, which I want to thank again  
16 the staff for making it such a memorable event for myself  
17 and my family. Other than that, I haven't been going too  
18 far except to Visalia.

19           CHAIRMAN EATON: Mr. Medina.

20           BOARD MEMBER MEDINA: The only additional one I  
21 have to report is the recycled products trade fair. I  
22 attended a number of trade fairs. I would have to say  
23 that what was put on by the Waste Board compared very  
24 favorably. I was very impressed with the number of  
25 vendors and the type of products that they had and also a

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1 number of them that had received loans from the Waste  
2 Board and they're doing quite well. So overall, I think  
3 our staff did an outstanding job.

4           CHAIRMAN EATON: In the interest of time, I'll  
5 also repeat that I attended the SWANA and the trade show  
6 which was very, very good and it's kind of nice to see an  
7 idea where at least a few of us Board Members voted and  
8 it came to fruition and actually came out as well as it  
9 did, but in addition staff did a good job.  
10 I was down in San Diego with regard to the rigid  
11 plastics conference and I think that now we hopefully can  
12 get kick-started some dialogue which hopefully will take  
13 us out of a tail spin and move us in a much more forward  
14 direction when it comes to plastics.  
15 In addition, I spent some time down in Mexico  
16 and I want to thank the Mexican tire haulers for a tour  
17 of Tiajuana and Mexicali. And if we're going to solve at  
18 least part of our problem, I think they're going to be  
19 part of the solution. Their problem happens to be not  
20 just our government but their own government who has  
21 refused to allow tires to be reused on vehicles, there's  
22 a limit, and they have a hard time. So hopefully working  
23 together they will be able to be helpful to us.  
24 With that, I'll turn to Mr. Chandler and the  
25 Executive Director's report, if any.



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1 MR. CHANDLER: Thank you, Mr. Chairman. And  
2 good morning, Members. I struggled last evening in going  
3 over this report because I had so many items that I felt  
4 were significant and looked at it again this morning and  
5 whittled down to ten items and thought it was still a bit  
6 long.  
7 What I'm going to propose to do, Members, is  
8 actually put this together in a written report for and  
9 you I'll just touch on about three items which I think  
10 are noteworthy for this morning, and the rest of the  
11 items you can get more detail on in that report.  
12 There's truly a significant number of events  
13 that occurred under the Board's name the last couple of  
14 weeks, and while several of you mentioned the recycled  
15 products trade show, I just would like to add a couple  
16 remarks which was that the staff particularly wanted to  
17 thank all the Board Members for your support in this  
18 event, help in handing out awards, and wanted to  
19 particularly thank Chairman Eaton for his original trade  
20 show concept. I think we have a long way to go helping  
21 state agencies to reach their procurement goals, but this  
22 event was truly a significant step in the right  
23 direction.  
24 And then finally, I want to just simply  
25 acknowledge Jerry Hart for his tremendous effort to

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1 inaugurate this event in what we hope to be an annual  
2 event. We already have 20 exhibitors signed up for next  
3 year.  
4 My report references the RPPC conference. I  
5 think I'll leave the details on that for the report as  
6 well as the Cal/EPA policy award. Senator Roberti did a  
7 fine job of accepting the award that we were given, there  
8 and I know we're all appreciative of recognition of that  
9 preference criteria we put in your program.  
10 One area that I will ask that the Board begin to  
11 seek more clarification from my office and the Deputy  
12 Directors is on the universal waste rule that has been  
13 promulgated by DTSC emergency regs just last March, a  
14 couple of months back.  
15 It designates several commonly used materials as  
16 universal waste and will potentially have an impact on  
17 some of our hazardous household waste collection centers  
18 in the coming months. So we will be providing more of an  
19 overview of DTSC's universal waste rule as emergency  
20 regulations come into effect and they promulgate their  
21 permanent rates. Again, more detail in the report.  
22 An area that I will summarize in a little more  
23 detail here is our California capital access program. I  
24 know Member Moulton-Patterson spoke about her attending  
25 the RMDZ loan administrator conference this month.

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1 Earlier this month California Pollution Control Finance  
2 Authority, CPCFA, officially inaugurated the California  
3 capital access program, what we refer to as Cal Cap, for  
4 recycle-based businesses. This program has been a long  
5 time in coming.

6 The Board approved participation in the program  
7 back in July of 1997. The Board made this pilot program  
8 possible with the half a million dollars from the RMDZ  
9 sub-account. Because of the multiplier effect, this  
10 initial \$500,000 contribution could provide up to \$10  
11 million in additional capital for recycling-based  
12 businesses.

13 The program was designed to target smaller,  
14 higher risk businesses that cannot meet the stricter  
15 credit requirements of the Board's RMDZ loan program.  
16 Unlike the RMDZ loan program, however, there are no  
17 location restrictions for recycling businesses.

18 Participating private banks can access Cal Cap loan  
19 applications within days and actually have them  
20 processed.

21 Eligibility criteria for qualifying  
22 recycling-based businesses closely mirrors the existing  
23 RMDZ loan program eligibility criteria, and CPCFA will be  
24 providing us with a list of the funded business on a  
25 monthly business so that staff or I can report to you on

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1 a regular basis on the progress of this program.  
2 A couple of other areas that you'll find in the  
3 report is the status report on our newsprint  
4 certification requirements, as well as progress that  
5 we've been making on the Class II waste issue. As you  
6 may know, staff have been working with potential  
7 solutions for impacted jurisdictions, League of Cities on  
8 dealing with this Class II waste issue. There are about  
9 34 jurisdictions that are impacted and I would say that  
10 meetings are going well with all effected parties.  
11 Again I would like to leave for my report our  
12 profiles project that BOARD MEMBER Jones referenced and  
13 we are making significant in-roads there. We will soon  
14 be making the presentation to Cal/EPA. I hope to be able  
15 to influence the agency's thinking on how they consider  
16 integrating all the boards and department staff in the  
17 new building. I think we have a template for success in  
18 looking at our profiles project.  
19 I will speak in one area a little bit more in  
20 detail and that was festival de la familia. The festival  
21 de la familia was held April 30th in Sacramento. It drew  
22 about 150,000 persons, making it one of the largest  
23 Hispanic-oriented public events in northern California.  
24 It also provided a unique outreach opportunity for the  
25 used oil recycling program, who sponsored an exhibit

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1 cooperatively with the California Conservation Corps and  
2 the City of Sacramento. Visitors were given vital  
3 information on used oil recycling. They were also asked  
4 to complete a survey on used oil and used oil filter  
5 management. Over 500 surveys were completed, and staff  
6 will be evaluating the results for use by the board and  
7 local agencies to adjust our marketing communication  
8 strategies and improve our Hispanic outreach efforts.  
9 Lastly, I did want to report that while we were  
10 successful in the budget process for our 2000-2001 BCPs  
11 through the legislature, I wanted to let you know in the  
12 revised process we submitted several BCPs for general  
13 fund surplus authorization, and unfortunately those BCPs  
14 were not moved forward by the agency and, therefore, are  
15 not being considered under the legislative review  
16 process. However, these concepts will be considered as  
17 we resubmit them for the 01-02 BCP process that is part  
18 of our traditional budget cycle.  
19 So I apologize for the length again. You'll get  
20 your report probably early next week, and that concludes  
21 my remarks.  
22 Thank you, Mr. Chairman.

23 CHAIRMAN EATON: Any questions of Mr. Chandler?

24 BOARD MEMBER JONES: Just one.

25 CHAIRMAN EATON: Mr. Jones.

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1           BOARD MEMBER JONES: Mr. Chandler, on the  
2 universal waste rule, I -- DTSC has identified some  
3 objects that are only considered a problem in the state  
4 of California, but I think one of the things that we need  
5 to be focused on is not only adding that to -- another  
6 agency adding it to a list, but how do you manage it.  
7 Are we going to put people in violation because they  
8 can't find it -- in a ten-ton load, they can't find the  
9 alkaline battery that's that big?  
10 I think we've got to really look at these things  
11 as to what's the effect and how do we manage it. I hate  
12 seeing people get put into a position of not complying  
13 with the law when it's something that is completely  
14 unmanageable. So I would hope that we really focus on  
15 some of these issues that while they're nice to say,  
16 they -- I don't know how you deal with it.  
17 MR. CHANDLER: We will be tracking it. I think  
18 the issue initially for us is right now in the emergency  
19 regulations you have a household generator exemption, and  
20 I think the question that is being asked by some parties  
21 is will those exemptions find their way into permanent  
22 regulations. And that's why we need to -- I understand  
23 your thinking. If they're not, then of course your point  
24 comes into play which is the management issue of those  
25 materials and will they be designated as hazardous waste.

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1           CHAIRMAN EATON: All right. Any other  
2 questions?  
3 Continued business items. Item A, my  
4 understanding, has been continued to the June board  
5 meeting as well. And while we're on continuing items, my  
6 understanding is at the request of the staff, Item Number  
7 31 on today's agenda has also been continued, I believe  
8 to June. So we will not be hearing Item A today which  
9 will be continued to June, or Item 31, which will be  
10 moved to the June agenda as well.  
11 Consent calendar. For new members, we take up  
12 the consent calendar at this time. Also at this time  
13 each member is free, should they so desire to pull any  
14 item of f the consent calendar, should you want further  
15 discussion of that item. So at this time I'll ask  
16 members before we take up the consent calendar whether or  
17 not there's any item they would like to be pulled from  
18 the consent calendar. Hearing none, seeing none,  
19 motioning none, we'll be able to take up the consent  
20 calendar.  
21 The proposed consent calendar today will consist  
22 of agenda Item Numbers 4, 5, 6, 7, 9, 36, 37, 38, 39, 43,  
23 44, 45, 47, 48, 49, and 50. If I had those numbers last  
24 week, I would have been a power ball winner.  
25 (Laughter)

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1 BOARD MEMBER JONES: Mr. Chairman.

2 CHAIRMAN EATON: Mr. Jones.

3 BOARD MEMBER JONES: I'll make a motion to adopt  
4 the consent calendar.

5 BOARD MEMBER MEDINA: Second.

6 CHAIRMAN EATON: Mr. Jones moves and Mr. Medina  
7 seconds that we adopt the consent calendar as proposed.  
8 Madam Secretary, please call the roll.

9 BOARD SECRETARY: Board Members Jones.

10 BOARD MEMBER JONES: Aye.

11 BOARD SECRETARY: Medina.

12 BOARD MEMBER MEDINA: Aye.

13 BOARD SECRETARY: Moulton-Patterson.

14 BOARD MEMBER MOULTON-PATTERSON: Aye.

15 BOARD SECRETARY: Paparian.

16 BOARD MEMBER PAPARIAN: Aye.

17 BOARD SECRETARY: Roberti.

18 BOARD MEMBER ROBERTI: Aye.

19 BOARD SECRETARY: Chairman Eaton.

20 CHAIRMAN EATON: Aye.

21 Members before we move into the actual new  
22 agenda items, as you may recall from our past adventures  
23 to the timber lands of California -- and this is amazing.  
24 It seems heat goes everywhere we are. Last year in  
25 Quincy we had the fires and this year we've got the



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1 excessive May heat. We always have a local presentation.

2 This morning we're very fortunate to have with us Britt

3 Fussel, who is the Public Works Director for the City of

4 Visalia.

5 Welcome.

6 MR. FUSSEL: Good morning.

7 CHAIRMAN EATON: Thank you for having

8 us.

9 MR. FUSSEL: You're welcome. We appreciate

10 having you in Visalia.

11 Chairman Eaton and Members the Board, Board

12 staff, good morning. I'm Britt Fussel. I'm the Public

13 Works Director for the City of Visalia. On behalf of

14 Mayor Don Landers, the City Council and City Manager,

15 Steve Solomon, we would like to welcome you to the city

16 of Visalia and to Tulare County. Unfortunately, Mayor

17 Landers is not available to personally welcome you as he

18 and members of the Council and the City Manager are in

19 Sacramento to meet with our legislators discussing

20 pending legislation and the ways the state can share the

21 \$12 billion surplus with cities and counties.

22 I would also like to welcome you as the staff

23 member of the Consolidated Waste Management Authority, a

24 joint powers authority comprised of the cities of Dinuba,

25 Lindsay, Porterville, Tulare and Visalia. Thanks to the

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1 support and the action of the Board in December, the JPA  
2 is now formed.

3 The JPA was formed so that as cities with common  
4 interests in solid waste, we can work to collectively  
5 solve our cities' problems. We plan to report our  
6 diversion for 1999 as a regional agency, and this is a  
7 JPA that these cities have been working on for about five  
8 or six years. At this time I would also like to thank  
9 Heidi Sanborn, Dianne Shimizu and your legal counsel for  
10 their assistance in getting the joint powers authority  
11 finalized and approved. As without their assistance, we  
12 probably would still be working on it today.

13 When AB 939 was enacted, the City of Visalia  
14 looked for innovative ways to implement the legislation  
15 to meet our diversion goals with minimal impact on our  
16 residents. This resulted in our split container system  
17 which allows the City to pick up commingled recycled  
18 waste along with municipal solid waste in a single  
19 container using a single truck and making a single pass  
20 down the street. Using this approach, we were able to  
21 develop a user-friendly system that is well-received by  
22 our community.

23 In this month's issue of American City and  
24 County, there is an article based on a report issued by  
25 the federal EPA and the Washington D.C. based institute

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1 for local self-reliance entitled "cutting the wastestream  
2 in half: community record setters show how." Visalia  
3 was one of the 18 cities profiled in the report and one  
4 of only two California cities studied.

5 When considering our green waste diversion,  
6 Visalia's residential programs are diverting in excess of  
7 50 percent from the landfill.

8 Again, I would like to welcome you to the city  
9 of Visalia. If there's anything I or city staff can do  
10 to make your stay as enjoyable and productive as  
11 possible, please let us know.

12 Thank you. With that, I will respond to any  
13 questions that the Board might have.

14           CHAIRMAN EATON: Any questions?

15 I just have one. Last night in between watching  
16 the game in the room and doing a couple other things in  
17 preparing for today's meeting, I noticed that there are  
18 television ads in the city of Visalia for recycling. Was  
19 that part of the public education effort that you have?  
20 What kind of cost or how did that whole program come  
21 about and have you seen any fruits from that, any peaks,  
22 or is it just started too early to basically get an  
23 evaluation?

24 MR. FUSSEL: There's probably several series of  
25 television advertisements out there on our local cable

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1 system. One is specifically put together by the City of  
2 Visalia through our education program and it has only  
3 been running very recently, so we're not sure what impact  
4 yet it's had.

5 In addition, the Tulare County Solid Waste  
6 Management Technical Advisory Committee put together an  
7 education committee as part of the efforts in working  
8 with your staff to develop outreach programs and have  
9 been running advertisements on the local cable channels  
10 for approximately a year now, and Jeff Monaco with the  
11 County of Tulare is here and maybe he would speak a  
12 little bit more about the benefits that we've seen from  
13 those.

14           CHAIRMAN EATON: The reason why I bring it up is  
15 obviously we can't buy time in L.A. and we've gone  
16 through the media contract and have about \$500,000 or  
17 \$600,000 left. I think with what we're seeing in cable  
18 here, that might be something we can look at grants for  
19 both electronic media grants or for jurisdictions as they  
20 try and get to the year 2000. I would like to see if  
21 that's legal to use those monies, and obviously if we  
22 went to some of the jurisdictions, either in San  
23 Francisco, Los Angeles, obviously we would break the bank  
24 very quickly, but perhaps some of the other jurisdictions  
25 might be able to use them.

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1 Mr. Monaco, welcome. Nice to see you again.

2 MR. MONACO: Thank you. Just very briefly,

3 Mr. Chairman and Members of the Board.

4 As Britt mentioned, the local task force, which

5 is the Solid Waste Management Technical Advisory

6 Committee, in response to the targeted assistance program

7 that the Waste Board has provided for us, we have

8 developed this education campaign for approximately the

9 last year. And just very briefly, it is funded through

10 the tipping fees with the Tulare County owned and

11 operated landfills. Right now the program is in its

12 infancy and we are spending a budgeted \$40,000 annually

13 on the program, and it has so far been the seeds for what

14 we hope will be a larger program that the other cities

15 and jurisdictions can tap into.

16 CHAIRMAN EATON: Thank you. Questions? All

17 right.

18 Moving right to the new business agenda items.

19 Mr. Jones, you had a question?

20 MR. MONACO: If there's any other questions of

21 the Board, I would be happy to try to respond to them.

22 CHAIRMAN EATON: Thank you.

23 Agenda Item Number 1, Waste Prevention and

24 Market Development Area.

25 MS. WOHL: Good morning. I just wanted to take

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1 this opportunity to formally introduce myself. My name  
2 is Patti Wohl and I'm the Deputy Director of the Waste  
3 Prevention and Market Development Division. I, too, am  
4 attending my first board meeting.

5 In the interest of brevity, I will have staff  
6 introduce the next items starting with Jim la Tanner on  
7 the loan program.

8 MR. LA TANNER: Good morning. My name is Jim la  
9 Tanner. I'm the supervisor of the Recycling Market  
10 Development Zone loan program, here to present the first  
11 three items.

12 Agenda Item Number 1 is a loan request from  
13 Whitney G. McLeod doing business as Whit McLeod Furniture  
14 Company. They are requesting \$195,000 to purchase real  
15 estate, finance capital improvements to the real estate,  
16 and purchase machinery. The business is located in  
17 Arcata, which is in the Humboldt Recycling Market  
18 Development Zone.

19 It is a pleasure to do this loan being in  
20 northern California, which we haven't had too many  
21 applicants. As a result of this loan the company will be  
22 able to divert 100 tons per year of waste from the  
23 landfills. The company itself actually takes wine  
24 barrels and makes furniture out of them.

25 Are there any questions on Item 1.

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1 CHAIRMAN EATON: Any questions of staff?

2 BOARD MEMBER JONES: Mr. Chairman.

3 CHAIRMAN EATON: Mr. Jones.

4 BOARD MEMBER JONES: I'll move adoption of  
5 Resolution 2000-243, consideration of approval of the  
6 Recycling Market Development revolving loan program  
7 location for Whitney McLeod doing business as Whit McLeod  
8 Furniture.

9 BOARD MEMBER MOULTON-PATTERSON: I'll second  
10 that.

11 CHAIRMAN EATON: All right. Mr. Jones moves and  
12 Ms. Moulton-Patterson seconds that we adopt Resolution  
13 2000-243.

14 Madam Secretary, please call the roll.

15 BOARD SECRETARY: Board Members Jones.

16 BOARD MEMBER JONES: Aye.

17 BOARD SECRETARY: Medina.

18 BOARD MEMBER MEDINA: Aye.

19 BOARD SECRETARY: Moulton-Patterson.

20 BOARD MEMBER MOULTON-PATTERSON: Aye.

21 BOARD SECRETARY: Papanian.

22 BOARD MEMBER PAPANIAN: Aye.

23 BOARD SECRETARY: Roberti.

24 BOARD MEMBER ROBERTI: Aye.

25 BOARD SECRETARY: Chairman Eaton.

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1           CHAIRMAN EATON: Aye.

2 Item Number 2.

3 MR. LA TANNER: Item 2 requests an RMDZ loan for

4 Silicon Recycling Services Inc. The company is located

5 in Camarillo, California within the Ventura County

6 Recycling Market Development Zone.

7 The company is requesting just over \$1.7 million

8 to purchase the real estate they're currently located in.

9 This will allow them to have lower payments than they

10 currently have, improving the cash flow for expansion of

11 the business. They'll also be able to expand into an

12 adjacent portion of the building for growth.

13 The company itself, as a result of this loan,

14 will be able to divert an additional 900 tons per year

15 from California landfills. The company, what it does is

16 they take the silicon used from semiconductor chip

17 manufactures and reprocesses that and sells it off to

18 companies that make solar panels. It's a new and growing

19 industry.

20 Are there any questions?

21           CHAIRMAN EATON: Any questions?

22           BOARD MEMBER JONES: Mr. Chairman.

23           CHAIRMAN EATON: Mr. Jones.

24           BOARD MEMBER JONES: Just a quick comment.

25 Somebody is here from Kroger. I saw them here earlier



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1 today. That was a loan that when we gave it out was  
2 going to generate the most amount of material per dollar  
3 of any loan we've ever given out. I like seeing this  
4 loan even though it's 900 tons because it's in the high  
5 tech recovery issues of taking the silicon out and that's  
6 something that we've got to start looking at on how we  
7 can effectively get what is going to be flooding a  
8 marketplace or a wastestream and start finding homes for  
9 some of that material.

10 So I want to move adoption of Resolution  
11 2000-221, consideration of approval of the RMDZ loan for  
12 Silicon Recycling Services.

13 BOARD MEMBER MEDINA: Second that.

14 CI-IAIRMAN EATON: Mr. Jones moves and Mr. Medina  
15 seconds we adopt Resolution 2000-221.

16 Madam Secretary, please call the roll.

17 BOARD SECRETARY: Board Members Jones.

18 BOARD MEMBER JONES: Aye.

19 BOARD SECRETARY: Medina.

20 BOARD MEMBER MEDINA: Aye.

21 BOARD SECRETARY: Moulton-Patterson.

22 BOARD MEMBER MOULTON-PATTERSON: Aye.

23 BOARD SECRETARY: Paparian.

24 BOARD MEMBER PAPARIAN: Aye.

25 BOARD SECRETARY: Roberti.

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1 BOARD MEMBER ROBERTI: Aye.

2 BOARD SECRETARY: Chairman Eaton.

3 CHAIRMAN EATON: Aye.

4 Item Number 3.

5 MR. LA TANNER: Item 3 presents an RMDZ loan

6 request for California Biomass, Inc., specifically for

7 their Victorville site which is located in Victorville

8 within the Mojave Desert Regional Zone. For this site

9 they are requesting \$570,500 to purchase equipment, make

10 leasehold improvements and some working capital.

11 The company itself converts green waste, wood

12 waste, food waste and drywall into compost. As a result

13 of this loan, they will be diverting an additional 60,000

14 tons per year from California landfills.

15 Are there any questions?

16 CHAIRMAN EATON: Any questions of staff?

17 BOARD MEMBER JONES: Mr. Chairman.

18 CHAIRMAN EATON: Mr. Jones.

19 BOARD MEMBER JONES: I'll move adoption of

20 Resolution 2000-222, consideration of approval of the

21 RMDZ loan for California Biomass.

22 BOARD MEMBER MEDINA: Second.

23 CHAIRMAN EATON: Mr. Jones moves and Mr. Medina

24 seconds that we adopt Resolution 2000-222.

25 Madam Secretary, please call the roll.

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1 BOARD SECRETARY: Board Members Jones.

2 BOARD MEMBER JONES: Aye.

3 BOARD SECRETARY: Medina.

4 BOARD MEMBER MEDINA: Aye.

5 BOARD SECRETARY: Moulton-Patterson.

6 BOARD MEMBER MOULTON-PATTERSON: Aye.

7 BOARD SECRETARY: Paparian.

8 BOARD MEMBER PAPARIAN: Aye.

9 BOARD SECRETARY: Roberti.

10 BOARD MEMBER ROBERTI: Aye.

11 BOARD SECRETARY: Chairman Eaton.

12 CHAIRMAN EATON: Aye.

13 Items 4 through 7 we've already dealt with on

14 the consent calendar.

15 Item Number 8.

16 BOARD MEMBER JONES: Mr. Chairman.

17 CHAIRMAN EATON: Mr. Jones.

18 BOARD MEMBER JONES: Before we go on to Item 8,

19 Mr. La Tanner, the loans up to date for this year with

20 the approval of these loans puts us at \$12 million?

21 MR. LA TANNER: Actually funded out of the

22 subaccount, yes. \$12,499,000.

23 BOARD MEMBER JONES: Okay. I wanted that on the

24 record. \$12,499,000-some dollars in RMDZ loans this

25 year. Congratulations to your staff for getting loans

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1 out. Don't -- we can't spend the whole IWMA funding on  
2 loans to RI'4DZ, but I think you went a couple million over  
3 what we thought we would do. \$12 million in loans is an  
4 awful lot of loans to support this and that's good work.

5 CHAIRMAN EATON: We haven't over-allocated; have  
6 we?

7 BOARD MEMBER JONES: It all depends on how we do  
8 the math.

9 (Laughter)

10 CHAIRMAN EATON: Mr. Jones, 1066 is tomorrow.

11 BOARD MEMBER JONES: It was a two-year block.

12 CHAIRMAN EATON: But if we're short, is that  
13 what you're telling us?

14 BOARD MEMBER JONES: We're not short. We're  
15 just not going to be able to fund \$12 million next year.

16 CHAIRMAN EATON: Have we given \$12 million in  
17 loans and signed contracts for \$12 million?

18 MR. LA TANNER: Pardon?

19 CHAIRMAN EATON: Have we signed contracts for  
20 \$12 million and we only have \$10 million available in  
21 reserves?

22 MR. LA TANNER: We actually have signed for  
23 \$12,499,000.

24 CHAIRMAN EATON: Have you signed the contracts?

25 MR. LA TANNER: Yes, we have.

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1           CHAIRMAN EATON: So you only have \$10 million  
2 available. So how can you sign the contracts for \$12  
3 million.

4 MR. LA TANNER: Because there was excess funds  
5 still in the sub-account.

6           CHAIRMAN EATON: But those funds were not  
7 earmarked for that; correct?

8 MR. LA TANNER: What I have to go by is to  
9 what's available to lend out, is a budget.

10          CHAIRMAN EATON: It's what the Board allocated,  
11 not what's in the fund.

12 MR. LA TANNER: I would have to defer to Karin  
13 Fish for the accounting or Debbie Garrett to further  
14 elaborate on this.

15 MS. FISH: Karen Fish, Acting Chief Deputy.  
16 The RMDZ account is continuously appropriated.  
17 The \$10 million was a spending plan. They have exceeded  
18 the spending plan and are now using the spending plan  
19 from next year, but that is acceptable because of how  
20 this fund is structured.

21 Any other questions?

22          CHAIRMAN EATON: Sure. When was that next  
23 year's spending plan approved?

24 MS. FISH: It's in the Governor's budget that --

25          CHAIRMAN EATON: So it hasn't been approved yet.

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1 MS. FISH: No. It's a spending plan for the  
2 Governor's budget that was adopted January 1st.

3 CHAIRMAN EATON: But my problem is not that  
4 we're loaning out more money. The problem is when the  
5 Board makes a spending plan and they make a decision that  
6 that's what they're going to do, it's incumbent upon the  
7 staff to come back and say they need more money at the  
8 appropriate time.

9 Why else have the spending plan? And the fact  
10 that it's in the Governor's budget does not necessarily  
11 mean that it's going to be approved. And that's where I  
12 wonder about where you can get into trouble with the  
13 programs over time with over-commitment and  
14 over-borrowing without sufficient -- even though there's  
15 sufficient reserves.

16 MS. FISH: The Admin Division was working very  
17 closely with the program and we knew that we were  
18 exceeding, but we felt that was acceptable because the  
19 fund was continuously appropriated. So that continuously  
20 appropriated account means that you can spend up to the  
21 cash level, even though it's true you have a spending  
22 plan; that the spending plan does not tie you or limit  
23 you to the amount.

24 And while we did brief the Board Members that  
25 the spending plan was going to be at the \$10 million each

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1 level each year, it also was inferred, although maybe not  
2 specifically stated, that if we went over the amount,  
3 that would be acceptable but that we would have to look  
4 at work load for the following year to make sure that if  
5 we spent the entire amount over two years, that it might  
6 limit -- actually, it might -- the work load of the staff  
7 might be reduced early in the second year and so loans  
8 would have to be placed on hold.

9           CHAIRMAN EATON: But under the statute this  
10 year, am I not correct, that that money is permissive  
11 that's transferred out of the IWMA. It's not mandatory  
12 as it was in the past and that's what's being counted on;  
13 is that not correct?

14 MS. FISH: Well --

15           CHAIRMAN EATON: -- goes over, it's the  
16 legislature in all its wisdom made a number of years  
17 where that transfer was automatic. This year it's  
18 permissive. So what are you balancing it on in the  
19 Governor's budget that is permissive? Because I didn't  
20 find it in the budget.

21 MS. FISH: Well --

22           CHAIRMAN EATON: I didn't find the \$5 million.  
23 Did you find, the \$5 million?

24 MS. FISH: The \$5 million was coming in this  
25 year or projected for next year.

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1           CHAIRMAN EATON: That's what we've just done.

2 MS. FISH: Yes. And that was transferred into  
3 the funds.

4           CHAIRMAN EATON: Right.

5 MS. FISH: But remember. In previous years we  
6 never came close to the \$10 million that was projected,  
7 so last year we only funded \$3 million. So we were  
8 carrying over amounts because the fund is continuously  
9 appropriated and knew that because of actions that the  
10 Board had taken to make this program more attractive --

11          CHAIRMAN EATON: We went to the legislature and  
12 asked them if we could buy down the reserves. We're  
13 fully aware of that. That was because they couldn't do  
14 it. We're aware of that.

15 MS. FISH: Right. So this year we --

16          CHAIRMAN EATON: So how much money are you  
17 counting on next year, as long as you rely on the  
18 Governor's budget, that's being transferred into the  
19 RMDZ?

20 MS. FISH: For next year the Governor's budget  
21 only is -- it's not transferring money from the IWMA.  
22 It's instead relying on the interest that is being earned  
23 as well as the loan repayments which equal the \$5 million  
24 transfer.

25          CHAIRMAN EATON: When will we see the spending



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1 plan for that money?

2 MS. FISH: The Board will be updated on the  
3 final numbers for how we end the year in July after the  
4 close of the fiscal year. So at that point in time the  
5 Board will be briefed on what we see the revenues are in  
6 the IWMA, as well as the past expenditures in RMDZ. So  
7 then a new spending plan will come forward for the Board  
8 Members to approve.

9 CHAIRMAN EATON: But you understand you've  
10 already told me you spent some of that money next year.  
11 That's what you told me. That's what disturbs me is the  
12 fact that we're spending money without having a spending  
13 plan that we've seen. There may be sufficient funds in  
14 there,. but I think it's incumbent on we, as a board, to  
15 make that decision, not something from staff in terms of  
16 a recommendation to us.

17 And you can't spend money without at least  
18 having us seen the plan.

19 MS. FISH: Well, absolutely, and I --

20 CHAIRMAN EATON: That's really the key here  
21 because that's the only way -- we're responsible for a  
22 loan program that is fiscally sound.

23 MS. FISH: The Board could decide to hold off on  
24 signing these agreements until July 1st. Whether or not  
25 all of these loans have actually been funded and will

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1 leave the account in this fiscal year, I'm not certain.

2 MS. GARRETT: Debbra Garrett. I'm the manager

3 for the Financial Assistance Branch.

4 The last three loans that were approved total

5 \$2.474 million. Those are not projected by program to be

6 funded until next fiscal year, as well as a

7 million-dollar loan that was approved in May of '99 is

8 also not anticipated to be funded until next fiscal year.

9 BOARD MEMBER JONES: So I misspoke. Sorry. I

10 was congratulating you, believe it or not.

11 (Laughter)

12 MS. FISH: You know, and --

13 BOARD MEMBER JONES: Because I remember that we

14 were putting an awful lot of pressure on the RNDZ loan

15 program to get loans out the door.

16 CHAIRMAN EATON: That's not the point, though,

17 Mr. Jones. The point is do we have the ability to

18 basically look at what the account reserves are and

19 basically not over-spend in terms of a spending plan.

20 Staff should have come back to us to appropriate the

21 monies because those monies, as you know, are going to be

22 permissive as we start going into the funds and as we go

23 through our process, especially since our BCPs and other

24 things that have gone through, we've tried to get more

25 money for the BCPs. And that's the point.

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1 It's not the point about not doing a good job

2 about loans --

3 BOARD MEMBER JONES: I know, but I --

4 CHAIRMAN EATON: - - but the fiscal integrity of

5 the account and should an audit take place and we've

6 signed the contracts where there are not sufficient

7 monies during that regular fiscal year and those are

8 binding obligations, it's a very simple situation. It

9 just needs to be monitored so that we don't run afoul of

10 some of the auditing procedures as it relates to the loan

11 program.

12 BOARD MEMBER JONES: It sounds like they did

13 that by saying there's \$3.5 million that's not going out

14 until next year.

15 MS. FISH: We do watch that very carefully, and

16 perhaps we need to do a better job of keeping the Board

17 Members updated on how closely the admin division does

18 monitor that. We'll do that in the future.

19 CHAIRMAN EATON: Okay. Thank you.

20 MR. ESTES: Mr. Chairman, my name is Tom Estes.

21 I'm presenting Item 8 which is consideration of approval

22 of award of contract to develop green building guidelines

23 for target building industry segment.

24 We put this RFP out on the street. We had three

25 bidders, one which was deemed to be responsible. That

Note: Pages 52-53 were absent from the source transcript and pages 51 and 54 were printed front and back on the same sheet.
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1 to five local projects under the auspices of the  
2 Department of Forestry. It would obtain portable kiln  
3 driers to compliment the portable mills that CDF already  
4 has. It would involve the development a cooperative  
5 marketing web site, and local -- conferences and  
6 workshops in local jurisdictions that have the projects.  
7 The funding total is \$60,000 from fiscal year  
8 99-00 funds. \$36,000 of that is from the RIS4DZ funds and  
9 \$24,000 is from Project Recycle, which would be used for  
10 the equipment purchases.

11 If there are no other questions, or if there are  
12 no questions, staff recommends that the Board approve  
13 option one and adopt Resolution 2000-227.

14 CHAIRMAN EATON: Any questions of Mr. Levinson?

15 BOARD MEMBER JONES: Mr. Chairman.

16 CHAIRMAN EATON: Mr. Jones.

17 BOARD MEMBER JONES: I'll move adoption of  
18 Resolution 2000-227 to approve an award of contract for  
19 urban log milling and market development to the  
20 California Department of Forestry.

21 BOARD MEMBER MEDINA: Second.

22 CHAIRMAN EATON: Mr. Jones moves and Mr. Medina  
23 seconds that, we adopt Resolution 2000-227.

24 Madam Secretary, please call the roll.

25 BOARD SECRETARY: Board Members Jones.

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1 BOARD MEMBER JONES: Aye.

2 BOARD SECRETARY: Medina.

3 BOARD MEMBER MEDINA: Aye.

4 BOARD SECRETARY: Moulton-Patterson.

5 BOARD MEMBER MOULTON-PATTERSON: Aye.

6 BOARD SECRETARY: Paparian.

7 BOARD MEMBER PAPARIAN: Aye.

8 BOARD SECRETARY: Roberti.

9 BOARD MEMBER ROBERTI: Aye.

10 BOARD SECRETARY: Chairman Eaton.

11 CHAIRMAN EATON: Aye.

12 Item Number 11.

13 MR. ESTES: Mr. Chairman and Board Members, Tom

14 Estes again. I'm presenting Item Number 11, which is

15 consideration of approval of proposed scoring criteria

16 process for green building design and construction

17 project grants, Contract Concept Number 78.

18 This is effectively Cycle 2 of our green

19 building grant program. A couple of features I would

20 just like to point out that differ from the first cycle

21 is we've raised the minimum scoring criteria, from 70

22 points to 80 points. We believe that will bring a more

23 quality proposal and we believe the competition is there

24 for local jurisdictions to do that.

25 We've paid special attention to the green

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1 procurement policy. We've got a three-tiered approach  
2 where we're looking to see that local governments  
3 actually keep an active involvement in terms of their  
4 green procurement policies. And as you will recall,  
5 there was a little concern in the first cycle about the  
6 eligibility. This one is very clear in terms of one  
7 grant per jurisdiction.

8 CHAIRMAN EATON: All right. Any questions of  
9 Mr. Estes? Hearing none.

10 BOARD MEMBER JONES: Mr. Chairman.

11 CHAIRMAN EATON: Mr. Jones.

12 BOARD MEMBER JONES: I'll move adoption of  
13 Resolution 2000-163, consideration of approval for  
14 proposed scoring criteria and evaluation for the green  
15 building design, Contract Concept Number 78.

16 BOARD MEMBER MOULTON-PATTERSON: Second.

17 CHAIRMAN EATON: Mr. Jones moves and  
18 Ms. Moulton-Patterson seconds that we adopt Resolution  
19 2000-163.

20 Madam Secretary, please call the roll.

21 BOARD SECRETARY: Board Members Jones.

22 BOARD MEMBER JONES: Aye.

23 BOARD SECRETARY: Medina.

24 BOARD MEMBER MEDINA: Aye.

25 BOARD SECRETARY: Moulton-Patterson.

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1 BOARD MEMBER MOULTON-PATTERSON: Aye.

2 BOARD SECRETARY: Paparian.

3 BOARD MEMBER PAPARIAN: Aye.

4 BOARD SECRETARY: Roberti.

5 BOARD MEMBER ROBERTI: Aye.

6 BOARD SECRETARY: Chairman Eaton.

7 CHAIRMAN EATON: Aye.

8 Item Number 12.

9 MR. LEW: Good morning, Mr. Chairman and Members

10 of the Board. I'm Ronald Lew. I'm in the Waste

11 Prevention and Market Development Division.

12 Agenda Item Number 12 is entitled consideration

13 of approval of award of contract for partnerships for

14 organics end-use and outreach.

15 This agenda item requests that the Board

16 consider the staff's evaluations and proposals received

17 in response to the RFP entitled "Partnerships for

18 Organics End-Use & Outreach" and award contracts to the

19 two highest scoring submittals.

20 A few of the salient points, the RFP would

21 expand and build on demonstration projects in the past.

22 The RFP requires a partnership approach, i.e., public

23 institutions acting as these partners partnerred with

24 end-users.

25 The two proposals in order of highest score are

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1 number one, the Department of Entemology at the  
2 University of California at Davis -- this proposal  
3 proposes to conduct a two-year research effort to examine  
4 the use of composting in fighting Grape Phylloxera, an  
5 aphic-like insect that infects and destroys grapevines  
6 worldwide. In California in the last decade it's cost  
7 the grape industry \$1 billion. The proposal proposes to  
8 research, demonstrate and disseminate information to  
9 vineyard managers on the use of compost to help suppress  
10 damage caused by Grape Phylloxera, to reduce soil-borne  
11 fungal pathogens associated with the insect. Partners  
12 for this partnership would include UC cooperative  
13 extension and Fetzer, a north coast vineyard.  
14 The other second scored proposal is also from  
15 the University of California at Davis from the Department  
16 of Vegetable Crops. This proposal proposes to examine  
17 the synergistic effects of using compost with a cover  
18 crop to simultaneously achieve rapid increases in crop  
19 yield and soil quality. Partners for this particular  
20 proposal include UC Cooperative Extension and Tanimura  
21 and Antle, a large vegetable grower in Salinas, in  
22 addition to Cranford, also a compost producer in the  
23 Salinas area.  
24 If both proposals are funded, the total funds  
25 requested for proposals would be \$159,932. Total



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1 matching in-kind contributions to these projects are  
2 approximately \$200,000. Of the \$200,000 allocated for  
3 these two projects for this RFP, \$40,000 would remain  
4 unencumbered if these proposals are funded.

5 Any questions?

6 CHAIRMAN EATON: Any questions of staff?

7 BOARD MEMBER MOULTON-PATTERSON: Mr. Chairman.

8 CHAIRMAN EATON: Ms. Moulton-Patterson.

9 BOARD MEMBER MOULTON-PATTERSON: I just had a  
10 question for my information because I really don't know.  
11 Does our Board work with the Department of Food and Ag on  
12 this. I know they're working really hard on this to  
13 finding an answer to this problem and I was just  
14 wondering how we communicated with them.

15 MR. LEW: I'll defer to Howard Levinson on this  
16 one.

17 MR. LEVINSON: We have not specifically talked  
18 to the Department of Food and Ag about this particular  
19 project, but we have talked with the fertilizer research  
20 education program at the Department in general terms  
21 about sponsoring or co-funding these kinds of projects,  
22 and that's actually a concept we would like to bring  
23 before the Board next year for your consideration. So we  
24 are in discussions with them in general.

25 BOARD MEMBER MOULTON-PATTERSON: If there aren't

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1 any other questions, I'll go ahead and move it.

2 I would like to move approval of Resolution

3 2000-228, award of contract for partnerships for organics

4 end-use and outreach, Contract Concept Number 30.

5 BOARD MEMBER JONES: I'll second.

6 CHAIRMAN EATON: Ms. Moulton-Patterson moves and

7 Mr. Jones seconds that we adopt Resolution 2000-228.

8 Madam Secretary, please call the roll.

9 BOARD SECRETARY: Board Members Jones.

10 BOARD MEMBER JONES: Aye.

11 BOARD SECRETARY: Medina.

12 BOARD MEMBER MEDINA: Aye.

13 BOARD SECRETARY: Moulton-Patterson.

14 BOARD MEMBER MOULTON-PATTERSON: Aye.

15 BOARD SECRETARY: Paparian.

16 BOARD MEMBER PAPARIAN: Aye.

17 BOARD SECRETARY: Roberti.

18 BOARD MEMBER ROBERTI: Aye.

19 BOARD SECRETARY: Chairman Eaton.

20 CHAIRMAN EATON: Aye.

21 Item Number 13.

22 MR. HUNTZ: Good morning, Board Members. My

23 name is Jeff Huntz. I'm the Supervisor of Business

24 Resource Efficiency in the Waste Prevention and Market

25 Development Division.

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1 This item is the consideration of approval of  
2 grant criteria and evaluation process for the CalMAX  
3 partnership program mini-grants in fiscal year 99-2000,  
4 Contract Concept Number 56.  
5 At its October meeting last year, the Board  
6 approved funding allocations for a major reuse initiative  
7 as part of its contract concept consideration. A  
8 component of this was contract funding for an effort to  
9 encourage local governments to use the California  
10 Materials Exchange, or CalMAX program, as their own local  
11 materials exchange or mini-max and promote the  
12 availability of this service to their business community.  
13 Subsequent evaluation by staff has led us to  
14 believe that a mini-grants effort getting money directly  
15 to local governments in small amounts so that they in  
16 turn can outreach to their business community directly,  
17 the audience of the CalMAX program would be the most  
18 effective means of spending this money and promoting the  
19 availability of the CalMAX program.  
20 The grant criteria is weighted heavily on the  
21 needs objectives with a 70 point minimum to qualify for  
22 funding. It includes the green procurement and rerefined  
23 motor oil provisions.  
24 If there are no questions, staff recommends  
25 adopting Resolution 2000-225.

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1 CHAIRMAN EATON: Any questions of staff?

2 BOARD MEMBER MOULTON-PATTERSON: Hearing no  
3 questions, I'll move approval of Resolution 2000-225 for  
4 grant criteria and evaluation process for the CalMAX  
5 partnership program mini-grants, Contract Concept Number  
6 56.

7 BOARD MEMBER JONES: I'll second.

8 CHAIRMAN EATON: Ms. Moulton-Patterson moves and  
9 Mr. Jones seconds that we adopt Resolution 2000-225.  
10 Madam Secretary, please call the roll.

11 BOARD SECRETARY: Board Members Jones.

12 BOARD MEMBER JONES: Aye.

13 BOARD SECRETARY: Medina.

14 BOARD MEMBER MEDINA: Aye.

15 BOARD SECRETARY: Moulton-Patterson.

16 BOARD MEMBER MOULTON-PATTERSON: Aye.

17 BOARD SECRETARY: Paparian.

18 BOARD MEMBER PAPARIAN: Aye.

19 BOARD SECRETARY: Roberti.

20 BOARD MEMBER ROBERTI: Aye.

21 BOARD SECRETARY: Chairman Eaton.

22 CHAIRMAN EATON: Aye.

23 Item Number 14, the last in this section.

24 MR. NUFFER: Good morning, Mr. Chairman and  
25 Board Members. My name is John Nuffer with the Waste

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1 Prevention and Market Development Division.  
2 Item 14 today proposes to make permanent a  
3 change to the Rigid Plastic Packaging Container  
4 regulations which became law when OAL approved emergency  
5 regulations on February 4th of this year. The change is  
6 located in California Code of Regulations 17946.5 and  
7 requires regulated companies to keep pertinent records of  
8 a particular compliance year for four years rather than  
9 two years as was required in the past. For example,  
10 companies would be required to keep records of the 1997  
11 compliance year through the year 2001 rather than 1999.  
12 This change, which took effect on February 4th  
13 with the approval of the emergency regs by CAL, will  
14 expire June 3rd unless the Board acts to make that change  
15 permanent.  
16 As context, each year the Board is required to  
17 calculate and adopt a recycling rate for Rigid Plastic  
18 Packaging Containers, or RPPCs, such as milk jugs,  
19 detergent bottles and motor oil containers. The last  
20 rate the Board adopted was in September of 1999 for the  
21 1997 compliance year. That rate was less than 25  
22 percent. If the rate is 25 percent or more, companies  
23 are considered to be in compliance with the law. If the  
24 rate is less than 25 percent, as was the case with the  
25 1997 rate, the Board may request that regulated companies

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1 submit certifications to demonstrate how they complied  
2 with the law using one of the other methods specified in  
3 statute, for example, by using more post-consumer resin  
4 in their containers or by using less virgin resin in  
5 their containers.

6 Because the 1997 rate was less than 25 percent,  
7 the Board directed staff at its January 2000 meeting to  
8 begin a compliance certification for 1997. In order to  
9 facilitate that certification, the Board also directed  
10 staff to file emergency regulations extending the time  
11 the companies had to keep records from two years to four  
12 years. Staff did that and the Office of Administrative  
13 Law approved that change in emergency regs on February  
14 4th.

15 To date, we've received comments from two  
16 organizations. First, the National Paint and Coatings  
17 Association, and second the State Department of Trade and  
18 Commerce. The National Paint and Coatings Association  
19 opposes the change. They say that its 400 members  
20 destroyed their RPPC records on December 31st of 1999.  
21 Nonetheless, those companies ought to know whether or not  
22 they were in compliance for 1997. One of the staff from  
23 Trade and Commerce was also concerned about the impact of  
24 the change on small, independent florists who use floral  
25 preservatives which come in plastic containers.

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1 Actually, the change would affect the manufacturer or  
2 distributors of those floral preservatives rather than  
3 the independent florists, so the point is actually moot.  
4 Those are the only comments we've received to  
5 date and we'll be including those in the final rulemaking  
6 package which, if you agree, needs to go to OAL by June  
7 3rd to make the change permanent.  
8 That concludes my presentation.

9 CHAIRMAN EATON: Any questions of Mr. Nuffer?

10 BOARD MEMBER JONES: Mr. Chairman.

11 CHAIRMAN EATON: Mr. Jones.

12 BOARD MEMBER JONES: Mr. Larsen is sitting out  
13 there. I forgot one of the things that I had to do last  
14 week, I guess it was, was do a kick-off on a program  
15 sponsored by APC, the Waste Board, grocery manufacturers,  
16 beer bottle distributors -- beer and wine distributors  
17 and somebody else, to put shelf talkers in all the  
18 Albertson's stores and let people know it's recycled.  
19 Obviously I talked about Buy Recycle as well as the  
20 collection, but I think it's important they're making a  
21 move to get over 25 percent and I hope they're  
22 successful.

23 I do think the people at the paint and finishing  
24 people need to know if they didn't hit 25 percent, we  
25 have changed the way we randomly select. It's in our

65

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1 power to decide who gets audited and who doesn't. I  
2 think they did a pretty good job of identifying somebody  
3 that needs to be audited.  
4 So the idea is to get recycled content into that  
5 packaging, not to play games with the numbers. So I'm  
6 not sure. Does this thing have to go out for another 15  
7 days? If everybody's confident, I think we ought to  
8 adopt it.

9 MR. NUFFER: You may adopt it today and we'll  
10 file the final regs by June 3rd, or you may let it go out  
11 for another 15 days, if you wish.

12 BOARD MEMBER JONES: Mr. Chairman.

13 CHAIRMAN EATON: Mr. Jones.

14 BOARD MEMBER JONES: I would like to move  
15 adoption of Resolution 2000-229 adopting these  
16 regulations and sending them to OAIJ.

17 BOARD MEMBER MEDINA: Second.

18 CHAIRMAN EATON: All right. So let me just see  
19 if I can for the record get this clear. Amend Resolution  
20 229; is that correct, Mr. Jones?

21 BOARD MEMBER JONES: 229.

22 CHAIRMAN EATON: Yes. You said you wanted it  
23 immediate. The Resolution talks in terms of an  
24 additional 15-day comment period. My understanding was  
25 you wanted to eliminate that additional 15-day comment



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1 period.

2 BOARD MEMBER JONES: You're correct,

3 Mr. Chairman.

4 BOARD MEMBER MEDINA: I second the motion.

5 CHAIRMAN EATON: So Mr. Jones moves and

6 Mr. Medina second that we adopt Resolution 2000-229 as

7 amended, and the amendment consists that we will not send

8 the proposed regulations out for an additional 15-day

9 comment period but adopt them today.

10 MR. NUFFER: And we'll send those out

11 immediately.

12 CHAIRMAN EATON: Send those out immediately.

13 BOARD MEMBER PAPARIAN: There's no indication of

14 anybody wanting to provide additional comments or wanting

15 extra time?

16 MR. NUFFER: No, there isn't. At the RPPC

17 conference in San Diego we announced that the regulations

18 were out for public comment. There were probably 90

19 people at the conference, including a lot of industry

20 folks, and we got no indication that anybody had any

21 other comments.

22 BOARD MEMBER MEDINA: I was present at that

23 conference and it was my impression as well.

24 CHAIRMAN EATON: Okay. Amended motion before

25 us.

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1 Madam Secretary, please call the roll.

2 BOARD SECRETARY: Board Members Jones.

3 BOARD MEMBER JONES: Aye.

4 BOARD SECRETARY: Medina.

5 BOARD MEMBER MEDINA: Aye.

6 BOARD SECRETARY: Moulton-Patterson.

7 BOARD MEMBER MOULTON-PATTERSON: Aye.

8 BOARD SECRETARY: Paparian.

9 BOARD MEMBER PAPARIAN: Aye.

10 BOARD SECRETARY: Roberti.

11 BOARD MEMBER ROBERTI: Aye.

12 BOARD SECRETARY: Chairman Eaton.

13 CHAIRMAN EATON: Aye.

14 Okay. We're at the juncture we're going to go

15 into permits. I got the glare from our court reporter

16 that she needs a break. So it's about quarter to 11:00.

17 If we could get back and resume at 11:00, I know there's

18 a couple items that are coming up that are going to take

19 some time to go through when we come back.

20 (Recess taken)

21 CHAIRMAN EATON: We're having difficulty due to

22 the length that the court reporter is away from us as a

23 Board and from the speakers. So if you do have a

24 conversation, if you would kindly help out. The Board in

25 Sacramento, it is little bit easier to get away with

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1 that. All right.

2 Welcome back, everyone. Any ex parte

3 communications to report, Mr. Jones?

4 BOARD MEMBER JONES: No.

5 CHAIRMAN EATON: Ms. Moulton-Patterson.

6 BOARD MEMBER JONES: Let me think.

7 CHAIRMAN EATON: No one talked to you.

8 BOARD MEMBER JONES: I said "hi," but nothing on  
9 the agenda.

10 BOARD MEMBER MOULTON-PATTERSON: I said hello to  
11 Aretha Showen (phonetic).

12 CHAIRMAN EATON: Senator Roberti.

13 BOARD MEMBER ROBERTI: Reacquaintance of  
14 Mr. Russell Diggs representing the cities of Hawaiian  
15 Gardens and Avalon, and Mr. Scott Gordon.

16 CHAIRMAN EATON: Mr. Medina.

17 BOARD MEMBER MEDINA: Mr. Montoya, nothing  
18 related to the Waste Board.

19 BOARD MEMBER ROBERTI: Mr. Gordon represents  
20 Crazy Horse for purposes of the record.

21 CHAIRMAN EATON: Mr. Paparian.

22 BOARD MEMBER PAPARIAN: Yes. I met John Davis  
23 from the City of Victorville, I met -- meet-and-greet,  
24 Joe Montoya, and I met Gordon Hart who does have an item  
25 on the agenda a little later on, Safety-Kleen.

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1           CHAIRMAN EATON: I just helped out Mr. Cupps not  
2 to beat you up on the long ride down.

3           BOARD MEMBER PAPARIAN: I appreciate that.

4 CHAIRMAN EATON: He said he had a hands-off  
5 policy.

6 Item Number 15, Ms. Nauman.

7 MS. NAUMAN: Good morning, Mr. Chairman and  
8 Members. Julie Nauman, Deputy Director, Permitting and  
9 Enforcement Division. We have four permits for you this  
10 morning, and I will just introduce the first one and then  
11 Mark DeBie will handle the first three permits, 15, 16  
12 and 17, and Virginia Rosales will take Item 17.

13 Item 15 is consideration of a new standardized  
14 composting permit for the Coachella Landfill composting  
15 facility in Riverside County. Mark DeBie.

16 MR. DE ME: Good morning. Mark DeBie with the  
17 Permitting and Inspection Branch.

18 As Ms. Nauman indicated, this is a new  
19 composting facility. It's located on the landfill in the  
20 Coachella Landfill in Riverside County. There's a couple  
21 changes to the agenda item. On the cover page of this  
22 item or the first page of this item, it indicates that  
23 the proposed, capacity is 187,500 cubic yards, and that's  
24 the incorrect value. That's more reflective of the -- of  
25 an annual capacity. The actual capacity is 37,500 cubic

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1 yards. Also, the operator is referred to as the Salado  
2 Creek Enterprises, Inc. Actually, they're an LLC.  
3 This is a new facility and it's primarily green  
4 material. And all of the findings have been made by  
5 staff, including compliance with CEQA as well as  
6 completeness of the RFI. And as the Board has approved  
7 amendments to the siting element in Item 49 in your  
8 consent calendar, Board staff are able to recommend  
9 concurrence on the issuance of the permit, Number  
10 33-AA-0292.  
11 If you have any questions the LEA, Mr. Bill  
12 Prinz, is in the audience, as well as the operator Mary  
13 Matava.

14 BOARD MEMBER MOULTON-PATTERSON: Mr. Chairman.

15 CHAIRMAN EATON: Ms. Moulton-Patterson.

16 BOARD MEMBER MOULTON-PATTERSON: Hearing no  
17 questions, I move Resolution 2000-259 with the  
18 appropriate findings to indicate the Board has found the  
19 proposed permit to be consistent with the California  
20 Environmental Quality Act, in conformance with the intent  
21 of the County Integrated Waste Management Plan, and  
22 consistent with state minimum standards and, therefore,  
23 concurs in the proposed permit.

24 BOARD MEMBER JONES: Second.

25 CHAIRMAN EATON: All right.

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1 Ms. Moulton-Patterson moves and Mr. Jones

2 seconds that we adopt Resolution 2000-259.

3 Madam Secretary, please call the roll.

4 BOARD SECRETARY: Board Members Jones.

5 BOARD MEMBER JONES: Aye.

6 BOARD SECRETARY: Medina.

7 BOARD MEMBER MEDINA: Aye.

8 BOARD SECRETARY: Moulton-Patterson.

9 BOARD MEMBER MOULTON-PATTERSON: Aye.

10 BOARD SECRETARY: Paparian.

11 BOARD MEMBER PAPARIAN: Aye.

12 BOARD SECRETARY: Roberti.

13 BOARD MEMBER ROBERTI: Aye.

14 BOARD SECRETARY: Chairman Eaton.

15 CHAIRMAN EATON: Aye. Item Number 16.

16 MR. DE BIE: Item Number 16 is consideration of

17 a revised solid waste facility permit for the Crazy Horse

18 Landfill in Monterey County.

19 This permit will allow various changes in the

20 permit including adjustment of the footprint, an increase

21 in tonnage, and other operational changes including the

22 use of ADC and a chipping operation to facilitate that.

23 There is a correction to the item also on -- for

24 this particular agenda item on the second page of the

25 item under options for the Board. It's indicated that

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1 the proposed permit was received on March 1st. Actually,  
2 the first iteration of the proposed permit was received  
3 there, but the final proposed permit was received on  
4 April 12th of this year and, therefore, the last day for  
5 the Board to act on this permit in the item it indicates  
6 April 30th. It would be June 11th of this year.

7 BOARD MEMBER ROBERTI: Mr. Chairman.

8 CHAIRMAN EATON: Senator Roberti.

9 BOARD MEMBER ROBERTI: I know there's always a  
10 reason, but I would like to be refreshed. Why is it that  
11 we have so little time to review this item?

12 CHAIRMAN EATON: Well, under the current  
13 statutory scheme --

14 BOARD MEMBER ROBERTI: I understand that.

15 CHAIRMAN EATON: This one.

16 BOARD MEMBER ROBERTI: This one. Yes. Did it  
17 get to us late -- or I sense that just in the normal  
18 course, I'm not casting any criticism of anybody, but the  
19 process seems to always get us on sort of a make-or-break  
20 last day, we have no choice but to act one way or the  
21 other on some of these items.

22 MR. DE BIE: Well, as the proposed permit was  
23 received and date stamped on April 12th, the nearest  
24 board meeting, scheduled board meeting, that we could  
25 bring it to you is this particular board meeting since

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1 the June board meeting would be too late to hear.

2 BOARD MEMBER ROBERTI: And how much time did the  
3 applicant have to get it to us?

4 MR. DE BIE: It's the LEA that submits the  
5 proposed permit to us.

6 BOARD MEMBER ROBERTI: The LEA. Excuse me.

7 MR. DE BIE: How much did they have?

8 BOARD MEMBER ROBERTI: Yeah.

9 MR. DE BIE: In processing it?

10 BOARD MEMBER ROBERTI: Yeah.

11 MR. DE BIE: Once they receive the application,  
12 they have 30 days to review it and deem it complete and  
13 then they begin a process of writing a proposed permit.

14 BOARD MEMBER ROBERTI: So it doesn't appear they  
15 sat on it for any great length of time.

16 MR. DE BIE: Not any length of time.

17 BOARD MEMBER ROBERTI: Mr. Chairman, on some of  
18 these permit applications, I think somehow we need an  
19 extension of time or get the point to the legislature.  
20 Hopefully we get some kind of remedial legislation. But  
21 this seems to happen all the time. This particular item  
22 is a little bit controversial, and it's either up or  
23 down. If we, don't approve it, the waste is going to have  
24 to go to somewhere where maybe it's even a worse  
25 situation, as I understand it, and we have hardly any



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1 time to vote on it.

2 I think the only remedy is to give us more time

3 after we receive the document, the documents from the

4 LEA, or this is just going to continue over and over

5 again, almost rendering the Board useless on permits

6 because the LEA's decision -- I don't know if the new

7 members know this. The LEA's decision stands unless we

8 can muster four votes, which really was something when we

9 only had four members. So -- you know, and then even if

10 you're against it, the options are pretty bleak anyway.

11 I'm not saying I'm against this proposal, but I

12 am suggesting that this sort of will segue me into what I

13 think we really have to do, and I would hope that staff

14 helps us prepare a proposal for the legislature that

15 gives us more time so at least we have two board meetings

16 to discuss the matter.

17 MS. NAUMAN: To begin to address the question

18 that you have raised, as you know for sometime we have

19 been planning to bring before the Board a workshop-type

20 setting to examine the whole permitting and enforcement

21 process.

22 I had the opportunity to meet with the advisors

23 a week ago on Monday to present to them kind of a

24 preliminary outline of what that workshop might look

25 like, and right now we're looking at your calendars to

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1 see if we can set aside some time, hopefully in early  
2 July.

3 BOARD MEMBER ROBERTI: Very good.

4 MS. NAUMAN: This would be one of the many  
5 policy issues that we would like to address during that  
6 workshop.

7 BOARD MEMBER ROBERTI: What do we plan as the  
8 action we take after, you know, we come up with these  
9 decisions?

10 MS. NAUMAN: On this particular item, I think  
11 we would be looking for a statutory change similar to  
12 what we have operating in the local government.

13 BOARD MEMBER ROBERTI: That's very good it's on  
14 our agenda --

15 MS. NAUMAN: Whether a more definitive  
16 process --

17 BOARD MEMBER ROBERTI: -- because it's just  
18 about the most frustrating thing that I experience being  
19 on the Board as far as the process is concerned, and that  
20 is like now you have -- actually, we've got a world of  
21 time on this one, June the 11th. Usually there's only  
22 one or two days, up or down, tough luck.

23 CHAIRMAN EATON: If they submit it at the right  
24 time, we really only have - -

25 BOARD MEMBER ROBERTI: And an enterprising

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1 jurisdiction or applicant -- and I guess if I were the  
2 applicant, I might be doing the same thing, to be  
3 brutally honest about it, to wait to the bitter end. Our  
4 responsibilities are different and we just need more  
5 time. So thank you.

6 CHAIRMAN EATON: When was the workshop?

7 MS. NAUMAN: We're hoping that we can have it in  
8 early July. We have been looking at your calendars. The  
9 dates of the 11th and 12th are the current dates that  
10 we've been looking at, so we can bring this to you in a  
11 minimal amount of time. It would be a workshop where we  
12 would invite operators and LEAs to participate with us so  
13 that you can hear their view.

14 BOARD MEMBER ROBERTI: July is fine. My problem  
15 is if we want to go for legislation this year in the hope  
16 that maybe somebody could amend the bill, maybe we ought  
17 to try -- try for an earlier date. That's like getting  
18 all of us in the same room together with all the various  
19 involved people and I know it's very, very difficult to  
20 do that on short notice.

21 If you can't, I think it probably would be wise  
22 because if we need legislation, we should try for an  
23 earlier date, otherwise we lose a whole year.

24 MS. NAUMAN: All right. Thank you.

25 BOARD MEMBER JONES: Mr. Chairman.

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1 CHAIRMAN EATON: Mr. Paparian and Mr. Jones.

2 BOARD MEMBER JONES: Just real quick. Gerald  
3 Quick, I don't see him in the room. If somebody is out  
4 there, we've got a message that's got to go to him that  
5 sounds kind of important. Maybe Evan or somebody can  
6 help or Michael Bledsoe that knows Gerald. There he is  
7 as we peak. I'm sorry.

8 BOARD MEMBER PAPARIAN: In reading through the  
9 background material on this, it appears that the facility  
10 has had some difficulties with gas violations.

11 MR. DE BIE: Yes.

12 BOARD MEMBER PAPARIAN: You're going to get more  
13 information related to that? Okay.

14 MR. DE BIE: I'm prepared to talk about that.

15 When staff reviews these application packages  
16 and permit packages, there's several findings that they  
17 need to make, one of which is whether or not the facility  
18 is in compliance with state minimum standards.

19 This particular facility has had some  
20 difficulties in the past with controlling the migration  
21 of landfill gas beyond its boundaries or potential of  
22 landfill gas migrating beyond its boundaries, so the LEA  
23 has, through an enforcement order, required them to  
24 upgrade and expand their landfill control system as well  
25 as their monitoring system, and they had a compliance

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1 date of the last part of this month in order to complete  
2 that work and show that they could comply with the  
3 requirement of preventing more than five percent or five  
4 percent or more gas at the boundary.  
5 The latest reports, monitoring probe reports,  
6 indicate that all of the probes along the boundary of the  
7 facility have showed little or no gas at this time. Most  
8 of the readings are zero percent. So staff is able,  
9 based on that information from the LEA and the operator,  
10 to determine that they're now in compliance with the  
11 landfill gas control requirement.

12 BOARD MEMBER ROBERTI: Do we have a listing of  
13 the various remedies that they have taken that bring them  
14 into compliance?

15 MR. DE BIE: I don't have a summary list in  
16 front of me, but I know that the operator is prepared to  
17 present that information if the Board wishes, and I think  
18 they even have a visual aid to aid the Board in  
19 understanding what they've done to correct this issue.  
20 Would you like to hear from the operator?

21 BOARD MEMBER ROBERTI: Probably. I guess I  
22 would, yes.

23 MR. DE BIE: Yes?

24 BOARD MEMBER ROBERTI: Yes.

25 MR. GORDON: Good morning. Scott Gordon for the

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1 Salinas Valley Solid Waste Authority. With me today is  
2 Steve Johnson, the operations manager, as well as Tim  
3 Isreal from Geomatrix Consultants.  
4 I'll try to summarize what's occurred and then  
5 we can get into greater detail. In short, the operator,  
6 the Salinas Valley Authority, has upgraded its landfill  
7 gas collection system in conformance with the stipulation  
8 and order and also placed new gas probes along the  
9 facility boundary. The prior gas probes were not  
10 actually on the facility boundary. They were on the edge  
11 of the waste unit. It's not a surprise, frankly, that  
12 you had some elevated gas in those locations. What we  
13 see now with the actual boundary locations is that you  
14 don't have landfill gas.  
15 So we're happy to report that we are in  
16 compliance and the LEA has so found. I don't know how  
17 much more you want to get into at this point. I would be  
18 happy to show you graphics about where --  
19 BOARD MEMBER ROBERTI: Just briefly so I have  
20 something to hang my hat on over and above the fact that  
21 the data shows there is no, whatever the word is, leakage  
22 or seepage. What have you done to bring that about so I  
23 feel as a number it's the conclusion that's arrived at  
24 because of actual effort and not because the serendipity  
25 nature of numbers?

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1 MR. GORDON: I'm going to ask Steve Johnson and  
2 Tim Isreal to assist. Let's come on up and if you could  
3 briefly detail the upgrades to the system and show the  
4 graphic about where the probes are located and what the  
5 results have been.

6 MR. ISREAL: Basically the Crazy Horse --

7 CHAIRMAN EATON: For the record --

8 MR. ISREAL: My name is Tim Isreal. I'm with  
9 Geomatrix Consultants, and I work as a consultant to the  
10 Authority and as their solid waste engineer.  
11 The Crazy Horse landfill actually has two gas  
12 collection and destruction systems. One is operated by a  
13 private contractor and they generate electricity. That  
14 system has been active since 1985. When the Authority  
15 took over the landfill in '97, we also installed a  
16 perimeter landfill gas system to specifically address  
17 perimeter migration at the site. So when you look at  
18 this graphic, the red is what has been installed within  
19 since '97, the green is the preexisting system, and the  
20 blue or purple here is additional facilities that we plan  
21 to install in the future.

22 So our current status right now is we have two  
23 systems, a gas-to-energy plant and also an enclosed  
24 ground flare, and we continue to work on expanding our  
25 system. We actually have plans to install another flare

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1 to increase our gas collection and destruction capacity.  
2 The point on the perimeter probes, we have a  
3 total of 13 probes and where we recently, over the last  
4 year, continue to have problems with migration were in  
5 these probes right along here. As you can see, this is  
6 right along the boundary of our waste footprint, but the  
7 facility boundary is clear out here. So we were  
8 continuing to have landfill gas detections out here.  
9 What we have done is gone and put in probes  
10 along the actual facility boundary to get a more accurate  
11 feel for what's happening at our facility boundary.  
12 So that's basically our current status.

13 BOARD MEMBER PAPARIAN: Are you still operating  
14 the probes that are inside?

15 MR. ISREAL: Yes. We will continue to monitor  
16 these so we have a feel for what's going on in our  
17 landfill.

18 BOARD MEMBER PAPARIAN: Are they still showing  
19 elevated levels? Is it just diluting as it goes out?

20 MR. ISREAL: I believe our last set of readings  
21 we had elevated levels in one probe in one location. So  
22 we're -- like I said, we're continuing to expand our gas  
23 system because we're interested in not only perimeter  
24 migration but also potential groundwater impacts, and  
25 what we want to do is pull as much gas as we can out of



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1 this landfill.

2 BOARD MEMBER PAPARIAN: Where are the residents?

3 What direction from that?

4 MR. ISREAL: There's residents on this boundary

5 here and then also -- actually, you can see these hashed

6 locations. Those are residents also and there's one, you

7 can't see it, about right here.

8 BOARD MEMBER PAPARIAN: Do the residents have --

9 did they know this hearing here is happening? Do they

10 know that -- do they have reason to know --

11 MR. GORDON: The answer to that is yes.

12 Actually, I didn't have the chance to share with you yet,

13 but last year when we were doing the negative

14 declaration, we held a forum at the site, sent out 300

15 mailers, asked the folks who live around the site to come

16 out. I think we had 15 or 20 come on a Saturday, toured

17 the site. That was part of our program.

18 They were well aware of the site. They had a

19 chance to see it. No one challenged the neg dec, and

20 we're very pleased about that. So the public is fully

21 aware of what is going on at the site.

22 BOARD MEMBER ROBERTI: Mr. Chairman.

23 CHAIRMAN EATON: Senator Roberti.

24 BOARD MEMBER ROBERTI: I think we may have

25 another item where maybe this question is more

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1 appropriate, but since it's on my mind, I don't want to  
2 forget it.

3 It appears by testimony that what you have had  
4 in place or what you have currently put in place recently  
5 has mitigated the problem. However, in your testimony  
6 now you have told us that you have proposals to further  
7 the purple -- what do you call those probes?

8 MR. ISREAL: Extraction.

9           BOARD MEMBER ROBERTI: This doesn't deal  
10 specifically with this question, but I would like our  
11 staff -- do we have -- are we in the process of getting  
12 information that's come out in past meetings where when  
13 we approve a permit based on a promise of future action,  
14 and now that's been introduced in this case, do we keep  
15 an inventory of whether the applicant has taken that  
16 action and what has happened?

17 MR. CHANDLER: I believe we do and I'll ask  
18 Julie to expand on that.

19 MS. NAUMAN: Senator Roberti, I think it was  
20 last month or the month before we did give you a chart  
21 that showed you the number of permit actions where the  
22 long-term gas violation policy was invoked and what has  
23 happened since that time.

24 We noted then that we had a total of 17  
25 facilities where the long-term gas violation policy was

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1 invoked, where you issued the updated permit with the  
2 understanding that. the gas violation would be dealt with  
3 in a timely manner. It was at last reading, nine of the  
4 facilities, nine of the 17, had come into compliance and  
5 eight of them were still working but under specific work  
6 plans to bring them into compliance.

7 So we are seeing that the facilities are  
8 following through with their commitment to you to --

9 BOARD MEMBER ROBERTI: Of these 17, how old is  
10 the oldest of the applications?

11 MS. NAUMAN: It appears on this list that one,  
12 this is the Chiquita Canyon landfill, was in July of '94  
13 and they were in compliance by '96. We're finding that  
14 it takes most of the facilities two to three years to  
15 come into compliance.

16 MR. CHANDLER: Members, I would just add as a  
17 more broader overview commentary, not speaking to the  
18 merits of this project up or down but more to what it  
19 features. It features a number of policies that I would  
20 encourage the new members to become familiar with.  
21 It features not only the 60-day clock issue that  
22 Member Roberti spoke of, what we call a scheduling notice  
23 and order a couple years ago. That's where the LEA and  
24 operator agree to certain terms and conditions where  
25 essentially the permit is issued to allow the operator to

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1 continue to work outside permit requirements while they  
2 put in place, in this case, an improved gas collection  
3 system. It also features (inaudible), what we call our  
4 long-term gas violation policy.  
5 All of these policies, you know, have their  
6 roots in your predecessors' decisions on how they wanted  
7 to see permits come forward, and I asked Julie and she  
8 just spoke to it earlier, that we have a future review of  
9 these policies as we go over our entire permit  
10 enforcement program here, partly as an education exercise  
11 and partly just to keep you apprised of hearing the  
12 effected stakeholders and communities, how these policies  
13 actually operate and what their implications are for  
14 future permits you're going to see.  
15 You will continue to see landfills come forward  
16 where the LEA and operator are going to want to expand  
17 the capacity at the landfill while at the same time  
18 they're out of compliance with state standards but  
19 putting in place a correction program, perhaps a gas  
20 collection system, perhaps additional features at the  
21 landfill that they will represent will bring the facility  
22 into compliance.  
23 We have that history here. We seem to have  
24 today testimony that represents that system is now in  
25 effect and working well; but again, I think it features

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1 nicely a number of policies that we want to bring to the  
2 Board and make sure you're all very familiar with how  
3 these policies affect the permit decisions and  
4 recommendations.

5 BOARD MEMBER ROBERTI: Mr. Chairman.

6 CHAIRMAN EATON: Senator Roberti and Mr. Jones.

7 BOARD MEMBER ROBERTI: Along those lines, we're  
8 talking about policy out of compliance with the state  
9 regulations, as well as, I guess this is part of it, the  
10 landfill's own siting element, which maybe Ms. Nauman can  
11 help us with because that is one of the perennial  
12 problems we're faced with here. And that is the siting  
13 element seems to indicate that the lesser number of times  
14 is called for, and yet if we're going to come up with a  
15 permit if we pass this, calling for a variance from that  
16 siting element requirement.

17 Now, I have some information that was given to  
18 me that the siting element doesn't specifically call for  
19 the 375 tons. Maybe you can help me.

20 MS. NAUMAN: Senator Roberti, I'm going to refer  
21 to the memorandum that you have in your item, which is  
22 noted as attachment 4 for Item 16, and the pertinent  
23 section out of the memo is from the Office of Local  
24 Assistance. It reads the proposed permit will increase  
25 the maximum daily tonnage from 375 tons per day to 750

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1 tons per day. The countywide siting element describes  
2 the existing facility as 375 permitted tons per day with  
3 an average of 506 tons per day.  
4 The section in the county siting element  
5 describing the potential expansion does not specify the  
6 proposed maximum daily tonnage. There's where you have a  
7 discrepancy. If you'll recall, we had a long discussion  
8 about this last month and we presented to you a table  
9 that indicated the permit actions that you've taken over  
10 the course of the last 12 months, I believe it was, and  
11 where you found permits in compliance with their siting  
12 elements or their NDFEs, as the case may be, even though  
13 there was a discrepancy between what was being proposed  
14 in the permit and what was specified in the element.  
15 At the conclusion of that discussion, you  
16 directed staff to come back to you with a discussion of  
17 the whole policy issue about conformance. The main  
18 jurisdiction for that resides within your DPLA --  
19 Diversion, Planning and Local Assistance -- Division, who  
20 has had a number of workshops with stakeholders.  
21 The P and E staff, permitting and enforcement  
22 staff, have met with the DPLA staff since your direction  
23 and we are in the process of developing that item to  
24 bring back to you and we're targeting your July meeting  
25 so that you'll have an opportunity to review with us the

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1 outcomes of those workshops, our thinking on the issue,  
2 and hopefully perhaps an opportunity to come to closure  
3 on that issue.

4 BOARD MEMBER ROBERTI: So you're proposal is for  
5 July.

6 MS. NAUMAN: So we just need to get through this  
7 May agenda and the items in June, and I can't tell you at  
8 this point --

9 BOARD MEMBER ROBERTI: So if I were to vote -- I  
10 would feel more comfortable voting on this if I feel that  
11 we're going to have more long-range, permanent policy  
12 where we have these two documents that digress quite  
13 often, if not most of the time. On this item, the  
14 testimony, and I think our documentation indicates that,  
15 the neighbors welcome or some of the neighbors welcome.

16 MS. NAUNAN: The neighbors have been very  
17 actively involved in the resolution of the issues  
18 surrounding this landfill, including they're involved in  
19 the negative declaration. I believe the operators can  
20 elaborate on this more. I know they've done -- there's  
21 been a number of public hearings and notice that's been  
22 circulated so the public has had opportunity to be aware  
23 and participate in the decision making that's led to this  
24 permit coming forward.

25 BOARD MEMBER ROBERTI: Is there any effect -- if

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1 we increase the tonnage, does that have any effect on the  
2 methane emissions?

3 MS. NAUNAN: I think I'll defer to the experts  
4 on that.

5 MR. DE BIE: I'm not going to indicate that I'm  
6 an expert relative to the relationship between the rate  
7 of placing waste and how it might affect the rate of gas  
8 generation. I'm sure Mr. Jones knows firsthand that  
9 there is a relationship to some extent.  
10 In this particular case, though, the facility  
11 is -- has implemented design changes to compensate for  
12 any increase in gas. We know that because we review the  
13 technical document that's associated with the permit, the  
14 report of facility information that outlines and  
15 describes all of their control and monitoring programs.  
16 We have confidence that what they're proposing  
17 will be effective in controlling the gas that might be --  
18 the increased amount of gas that might be generated by an  
19 increased rate of garbage disposal.

20 MR. GORDON: Just to add to the answer you just  
21 heard, I'm going to go back and refer to the diagram for  
22 a moment.

23 The facility has been taking waste on the order  
24 of 600 and 700 tons a day for a considerable period of  
25 time, and that's in conformance with the stip and order.



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1 The facility system that you see depicted, and I have a  
2 reduced version so you're not going to burn your eyeballs  
3 out reading that, is sized to meet that. That is, the  
4 system that's in place now that's reflected in the green  
5 adds and the purple adds are designed to accommodate the  
6 rate of waste flow of 750 tons per day. So the system is  
7 sized to meet that obligation. I think that's the  
8 infinite question.

9 BOARD MEMBER ROBERTI: The footprint has been  
10 increased?

11 MR. GORDON: The footprint has actually been  
12 slightly decreased. We made a five-and-a-half- to  
13 four-acre swap so we actually made it a little smaller.

14 BOARD MEMBER ROBERTI: Is it just the  
15 configuration that you've changed or what? I don't quite  
16 understand. If we're increasing the tonnage and you're  
17 saying that actions you have taken actually have  
18 accommodated for that increase in tonnage to mitigate an  
19 increase in methane, I still don't understand what you  
20 have done.

21 MR. GORDON: The rate of fill that the site  
22 actually has has been in place for some time. The permit  
23 before you seeks a maximum of 750 tons a day. The staff  
24 report reflects that. We've taken 700 tons a day. So  
25 the site is operating at that clip now and in effect has  
91

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1 been.

2 The system that you see depicted, and I'm going  
3 to hand out a smaller version to you, has been sized to  
4 meet engineering requirements to accommodate that amount  
5 of waste. The rate of inflow, and I'm sure there are  
6 others in the room who can speak to that better than I,  
7 the rate of inflow affects the methane generation rate,  
8 not the ultimate amount created. So you have to size  
9 your facility system to meet what you're going to  
10 generate, and that system does so.

11 BOARD MEMBER ROBERTI: It affects the rate of  
12 generation, but if that rate of generation of methane is  
13 accelerated up front, doesn't that have an effect, maybe  
14 an adverse effect on the environment?

15 MR. GORDON: In theory, yes, if that were the  
16 case. Those aren't our facts.

17 BOARD MEMBER ROBERTI: I understand they're not  
18 your facts and you've done something to mitigate that,  
19 and I want to know what you have done.

20 MR. GORDON: The system you see depicted. The  
21 landfill gas collection --

22 BOARD MEMBER ROBERTI: I'm not an engineer.

23 MR.. GORDON: I understand. The system in place  
24 consists of wells and pipes throughout the landfill mass.  
25 They are sized -- and all this is in the report of

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1 disposal site information, the technical documents.

2 BOARD MEMBER ROBERTI: I know that, and I've  
3 been to more landfills that I can count, but -- so I know  
4 these systems are in place, but you have done something,  
5 I understand from testimony, to mitigate an increased  
6 methane emission that will occur by the increased tonnage  
7 that you're taking in, over and above the normal system  
8 of methane control the landfills have. That's what I'm  
9 sort of understanding what you're saying. I want to know  
10 what is that.

11 MR. GORDON: I'm probably complicating this in a  
12 way that I don't need to. What has been done is exactly  
13 what you see. That is, the LEA has required, and we have  
14 implemented, an enhanced gas collection system which  
15 means more wells, more pipes, increased rate of taking  
16 gas out of the site.

17 BOARD MEMBER ROBERTI: In anticipation of an  
18 increased tonnage.

19 MR. GORDON: Yes. And, in fact, designed to  
20 accommodate it. Let me -- the thought about the public's  
21 involvement made me want to add a couple of thoughts in  
22 terms of the comfort level that I'd like you all to have.  
23 This site has had an immense amount of public  
24 input and scrutiny, and for the record I think it's  
25 important to know that before the site was conveyed to

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1 the Solid Waste Authority in August of 1997, the City of  
2 Salinas approved, through a CEQA process, an increased  
3 daily tonnage rate of 750 tons a day, the reasons of  
4 which are long and laborious. The permit reflecting that  
5 has taken this long to get to you.

6 But suffice it to say that with the second  
7 negative declaration that we did in November and December  
8 of 1999 to reflect the other permit changes and reaffirm  
9 the tonnage increase, this particular rate of tonnage has  
10 had two separate CEQA reviews, neither of which has been  
11 challenged, and we've had the public access to the site,  
12 we've invited them to the site and told them everything  
13 we're doing.

14 I don't want anybody to misunderstand the  
15 public's awareness here. We've made a very, very strong  
16 outreach program. We're sensitive to that. We're a  
17 public agency and we've made every effort to get the word  
18 out to the public, particularly those that are nearby the  
19 site. And I hope we've accomplished that.

20 BOARD MEMBER ROBERTI: Mr. Chairman, I think  
21 this question is more of our staff than of the applicant.  
22 The applicant is merely operating on the normal  
23 course of operations that we conduct or have conducted  
24 over the years, but my question of staff is in our coming  
25 workshops or meetings, are we planning to look into the

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1 situation where an applicant or a landfill operator  
2 actually increases the tonnage over and above the permit  
3 and sort of presents a fata complete with us. And I'm  
4 not quarreling with the applicant in this case because  
5 they've been going on for a long, long time, but it --  
6 the system compromises the Board's ability to look at  
7 something fresh and do anything other than sort of rubber  
8 stamp the fata complete.  
9 So I would hope that that is part of our  
10 discussions because I really think it's a serious  
11 problem. And I'm not saying it in the light of this one  
12 specific landfill because if I were operating a landfill,  
13 I would probably do what custom has permitted us to do.  
14 But from the point of view of somebody trying to set  
15 policy, it really doesn't make much sense to me.

16 BOARD MEMBER JONES: Mr. Chairman.

17 BOARD MEMBER ROBERTI: Question of Julie.

18 CHAIRMAN EATON: And Mr. Jones.

19 MS. NAUMAN: Mr. Roberti and Board Members, the  
20 staff is planning to bring that issue before you as well.  
21 It has become a practice and, in fact, I became aware not  
22 long ago there was a policy adopted some time ago that in  
23 essence kind of allows the LEAs to issue these orders and  
24 to allow facilities to operate in excess of the permitted  
25 tonnage as long as the excess doesn't exceed the amount

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1 of tonnage that was analyzed in the CEQA document.

2 So this is a rather long-standing practice, but

3 one that we are planning to bring back to you for your

4 review.

5 BOARD MEMBER ROBERTI: Do you have any idea when

6 the practice took place?

7 MR. DE BIE: That was '92, '93.

8 MS. NAUMAN: '92 or '93.

9 BOARD MEMBER ROBERTI: I have a hunch as that

10 practice has been established we have probably -- I bet

11 you can count on one hand the number of permits we've

12 denied once we allow the operator to, in effect, win

13 before he comes to the Board.

14 BOARD MEMBER JONES: Mr. Chairman.

15 CHAIRMAN EATON: Mr. Jones.

16 BOARD MEMBER JONES: I've been listening to this

17 and I've been trying to wait until there's been an

18 appropriate time.

19 I think this illustrates completely why the

20 staff's interpretation of the siting element change that

21 came along with AB 1220 is flawed. The reason that LEAs

22 are given the duty to issue a stipulated order is there

23 is a change in the local area -- there is growth, people

24 come in, there's a disaster. You don't want operators

25 operating outside of their permit so they work with the

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1 LEA.

2 Because the permit process takes so long, they  
3 issue a stipulated order because they've got to be able  
4 to take care of the disaster or the growth or whatever is  
5 going on in that jurisdiction within that waste flow so  
6 that it's manageable because under stipulated order the  
7 LEA sets conditions as to how they're going to operate.  
8 The operators are not operating outside of the permit  
9 scheme while they're doing the stipulated order. They're  
10 in the process of revising a permit, but it could be  
11 anything from the unexpected closure of another landfill.  
12 And you know, we have some decisions we can  
13 make. We can sit here as a board and say absolutely  
14 nobody takes in any more than what you've been permitted  
15 for, but I don't know where the garbage goes. And I  
16 don't know how the LEA, how they can control the health  
17 and safety without being able to order, to order  
18 stipulated orders to manage that increased waste flow.  
19 It happens all the time.  
20 There's a reason that there's a stipulated  
21 order, and I think that it's really important to go back  
22 on a couple things that have been said today. One is to  
23 think that staff and LEAs work to get a permit in a  
24 position that this Board can concur on, the fact that a  
25 document gets turned in in March 12th, or whatever the

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1 heck the day was, doesn't mean that permit hasn't been  
2 worked on from the operator, the LEA, and state staff for  
3 up to five years. Five years, three years, two years.  
4 I've never seen one that an operator handed to  
5 an LEA and then came to this joint. It doesn't happen.  
6 So I think what we've got to do, and I'm glad that you  
7 brought it up, what I would like to see in this  
8 presentation is I'd like to see the League of Cities, the  
9 operators, staff, LEAs put together a comprehensive  
10 program that shows this Board, explains to this Board how  
11 siting elements used to be viewed because prior to 1220  
12 there was no description. That's why we see so many  
13 permits that come in with whatever the tonnage was the  
14 day that report was written because that's the  
15 requirement under the law.  
16 We've got permits that we concur with because  
17 they never identified tonnage, and yet on the same agenda  
18 because somebody identified 700 and now they want a  
19 thousand, we don't concur. we have to go through this  
20 routine. I think that illustrates the fact that how  
21 those siting elements were looked at and then I think --  
22 I may be wrong. I think it was 1220 that changed, 1220  
23 or 688. Was it 1220 that changed that one word that said  
24 describe?  
25 UNIDENTIFIED SPEAKER: It's not coming to me



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1 right at this moment.

2           BOARD MEMBER JONES: There was a word change in  
3 one -- the legislation that came later, there was a  
4 one-word change in how you dealt with siting elements.  
5 It was interpreted by this Board or by staff that meant  
6 fully describe, it's not just the map.  
7 So I think what we need to do is see what are  
8 the conditional use issues locally before this ever goes.  
9 What are the -- what role does the siting element have?  
10 What role does the permit have? The way I've always  
11 interpreted it, and I think a lot of people do, is that  
12 if the siting element is here and this is your footprint,  
13 and I think if you go out of what you designed, you  
14 recirculate everything. When I say neighbors, everybody  
15 in the county, all 88 cities in L.A.  
16 But to get the changes that happen on a regular  
17 basis, to go from 75 tons to 150 tons, the permit process  
18 deals with that. It deals with it through a mitigated  
19 neg dec, it deals with it through -- however they want to  
20 deal with it locally, where the neighbors close to a  
21 facility are notified, not the guy in Lancaster that's  
22 dealing with a site in -- somewhere close to Orange  
23 County, pick a city. And you know what I mean? There's  
24 no relevance there.  
25 I would like to see not just our Board staff put

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1 this workshop together, I would like to see LEAs, League  
2 of Cities and the operators so that we can view -- six of  
3 us can see the totality of the process because Senator, I  
4 swear on my mother's face --

5 (Laughter)

6 BOARD MEMBER JONES: -- nobody, nobody has  
7 brought a permit to this place unbeknownst to this staff  
8 or to an LEA that took less than 30 days or 60 days or  
9 120 days. It doesn't happen. I've had permits in this  
10 place for four years, five years. So when we get them,  
11 we're supposed to be getting them in a condition that all  
12 the work has been done. We've only got six reasons not  
13 to comply with the permit.

14 BOARD MEMBER ROBERTI: I understand that, and I  
15 agree with almost everything you've said. I just want to  
16 get back to what concerns me and what I think can drive  
17 approval of a permit, not from any nefarious  
18 considerations but only because the conditions of timing  
19 will drive it, and that is the ability pursuant to the  
20 Board's regulations, I believe that have been adopted,  
21 that allow for the applicant to, before the application,  
22 have a variance from the permit inevitably has an  
23 enormous force on the eventual action of this Board to  
24 approve that permit.  
25 Why? Because something is happening and it's

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1 human nature, the Board's, our own staff and everybody  
2 else that's involved, to try to want to find ways to  
3 accommodate what has happened because we're not looking  
4 at something fresh. I'm not quarreling with the reasons  
5 that comes about. I understand population changes. We  
6 can't waive a wand and say there's not going to be  
7 population changes.  
8 What also concerns me is that when we allow the  
9 situation to take place, everything is considered other  
10 than what this Board does. What this Board has to do is  
11 to weigh the environmental considerations in their whole  
12 panoply, the whole gamut of things we have to consider,  
13 but when we allow a digression because of population  
14 change, economic changes in the neighborhood, whatever,  
15 another landfill has closed, that one thing becomes the  
16 driving force, and what this Board should be doing  
17 becomes the last thing we consider. And in fact, our  
18 operation is the last thing we consider because the Board  
19 doesn't get it until it's done.  
20 So what we should be doing, and that is weighing  
21 the environmental repercussions of integrated waste  
22 management, is the last thing. And the driving factors  
23 are all these extraneous factors, very important,  
24 especially here in California, no demographic changes  
25 that take place. So when I would say when we have our  
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1 task forces and our June meeting or whatever, all the  
2 things that you said in operation, I hope that we have as  
3 part of the consideration the fact that the work of this  
4 Board -- something we take for granted in our minds but I  
5 think that somehow maybe gets set off because we do take  
6 it for granted -- the work of this Board has to be  
7 weighed with equal consideration at least if not more,  
8 with all of the changes that take place that we're  
9 considering too, like population changes being the normal  
10 one.

11 You put all these things together, including the  
12 fact that it's human nature -- my human nature, staff's  
13 human nature, everybody's once something is set in  
14 place, it's your desire to try to figure out a way to  
15 make it happen within the rules that we have so you can  
16 do everything. That is Why I think we have -- besides  
17 the fact it takes four out six or four out four to beat  
18 the LEA -- which I don't know if our new members know  
19 the LEA prevails if you don't get the four votes -- that  
20 aside from those rules as well, that's why we hardly ever  
21 refuse a permit.

22 That doesn't mean that you're saying the work  
23 doesn't go into it. I know the work goes into it but the  
24 driving force, the driving force complete has already  
25 taken place and all those things that force us to make

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1 considerations, and then the work of the Board is the  
2 last thing on the agenda and it's already taken place by  
3 the time we vote.

4 I'm not quarreling with this applicant. I'm  
5 sorry he's the one that is stuck with what I consider is  
6 this very major discussion that we've got to have to  
7 deal -- what I'm looking for is a policy thrust, a twist  
8 in the way we've been operating and maybe to get back to  
9 some original construction of the constitution, why we're  
10 here in the first place. I think all these other  
11 extraneous things have caused us to be a permit approval  
12 factory.

13 I don't want to be critical, absolutely don't  
14 want to be critical, but we have to reexamine after we've  
15 been operating for some time. I don't know how many  
16 permits I've voted against.

17 MS. NAUMAN: Senator, just to respond very  
18 briefly, it is our intent to really begin the discussion  
19 with you about the permitting and enforcement process by  
20 talking about the statute and the regulations that we  
21 have in place to support that, to have a very clear  
22 understanding of what the statutory scheme envisions as a  
23 responsibility for your Board versus the responsibility  
24 of the LEAs.

25 And I think when we go through that discussion

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1 with you, it will highlight the relationship and the  
2 other areas of responsibility and why we find ourselves  
3 in these situations sometimes. That's not to say that  
4 there are not other ways to do this.

S           BOARD MEMBER ROBERTI: Just to respectfully edit  
6 your remarks. I don't think we find ourselves in this  
7 situation sometimes, I think we find ourselves in this  
8 situation all the time. All the time. Short-order  
9 permits and the change has taken place, and here we are  
10 having a discussion on something that we are going to end  
11 up approving probably.

12 MS. NAUMAN: Again, I would like to take you all  
13 the way back to the statute and build from there with the  
14 various policies that the Board has adopted over time  
15 which are certainly open to reexamination.

16           BOARD MEMBER ROBERTI: One last question from me  
17 and maybe you, Ms. Nauman, or maybe the applicant can  
18 answer for us. Why wasn't a request made simultaneously  
19 to change the siting element?

20 MS. NAUMAN: I'll ask the operator to answer  
21 that.

22           BOARD MEMBER ROBERTI: Or why we have a siting  
23 element if we never change it. Again you're stuck, but  
24 you're the person. We never change the siting element,  
25 which strikes me as the more important document than the

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1 permit. So what our process is is we let people violate  
2 the permit ahead of time and then we let them change the  
3 permit and, indeed, violating the siting element too and  
4 didn't bother changing that. Why didn't you ask for a  
5 siting element other than it's the custom around here not  
6 to do that?

7 MR. GORDON: The fact is we did, in fact, talk  
8 to the County of Monterey about amending the siting  
9 element for this facility, as well as another one, and  
10 what the County has indicated to us is that they have a  
11 plan to update the entire element but they're not going  
12 to do it on a site-by-site basis.

13 I personally disagree with that. I think it's  
14 something you may want to add into your workshop mix  
15 because it is a little frustrating. It didn't have to be  
16 that way here but, in fact, we're not in a position to  
17 just change the siting element. The County of Monterey  
18 has to do that. They have their own program and  
19 timetable for doing that. It isn't our timetable, but  
20 our permit needs are here.

21 As Member Jones was talking about earlier, we  
22 can't script when the tonnage goes up, when things  
23 change. .n this case -- and I'm not county bashing. If  
24 it sounds like it, I don't mean to, but the truth is  
25 their timetable for taking on that task is not meeting

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1 our objective to try to get this permit amended.  
2 The good news is, and I've said it before but  
3 I'll just close with it, is that we are, in my judgment,  
4 substantially in conformance with the CSE anyway. The  
5 average tonnage listed in there is 506 tons a day. We  
6 average 550. Our peaks are higher, yes, but the average  
7 daily tonnage is really pretty close anyway.  
8 We've had two CEQA reviews, one in 1997 and  
9 again in '99 on this. So from the standpoint of public  
10 access and input into the decision and the knowledge  
11 about the site, that objective is met, but if I had my  
12 druthers, if I were king of the world, I would have the  
13 County change the siting element. They were unwilling to  
14 do it in this case.

15 BOARD MEMBER JONES: Mr. Chairman.

16 CHAIRMAN EATON: Mr. Jones.

17 BOARD MEMBER JONES: I think there's two things  
18 the Senator brings up. One of them, I think that you're  
19 right. The scope has been narrowed. 1220 narrowed it.  
20 We probably need to be working on widening it. But I  
21 also think that it is critical that we get this  
22 workshop -- I would hope that all six members would agree  
23 that not only staff but to include the League of Cities,  
24 to include the haulers, to include the LEAs, because --  
25 and if I'm -- I am convinced, having lived through the



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1 process for 22 years, that local governments have a  
2 bigger stake in making sure that their citizens are --  
3 are aware of what's going on within their community, and  
4 I think one of the things Julie Nauman said was when you  
5 do this stipulated order, it is also conditioned by what  
6 was in that original CEQA document, not to exceed it.  
7 So I think to presume that -- you know, when we  
8 have these hearings, there's nobody here from the  
9 neighborhood, very rarely. That's done locally, and I  
10 think that it needs to stay local because they're the  
11 only ones who really care.

12 BOARD MEMBER ROBERTI: Unless you're in  
13 Sacramento, then everybody comes.

14 BOARD MEMBER JONES: You know what I mean?

15 BOARD MEMBER ROBERTI: I understand.

16 BOARD MEMBER JONES: Everyone -- and part of  
17 this system is set up so that those people have the  
18 opportunity to speak. The fact that Monterey County  
19 doesn't want to deal with the siting element versus the  
20 City of Salinas -- let's say that the County of  
21 Monterey -- oh, wait. County of Monterey does operate  
22 facilities in the county. They operate two or three. If  
23 Salinas is a competitor and we're going to hang up and  
24 not give permits out because siting elements aren't  
25 updated, why update a permit? Why not take that waste

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1 flow from Salinas and bring it into Monterey's landfills?

2 It's going to help their pockets better.

3 So you've got to balance the competitive issues

4 that cities and counties deal with on a day-to-day basis,

5 and I think the locals -- I have a lot of faith in most

6 LEAs. I say most. I have a lot of faith that most

7 elected officials in the local jurisdiction don't want to

8 get thrown out because they're not taking care of their

9 business.

10 So I would hope that this meeting includes all

11 those people.

12 CHAIRMAN EATON: Ms. Moulton-Patterson.

13 BOARD MEMBER MOULTON-PATTERSON: Thank you,

14 Mr. Eaton. I just have a procedural question. If the

15 County makes the decision, don't the citizens have a

16 right to appeal it to this Board?

17 BOARD MEMBER JONES: On a siting element?

18 BOARD MEMBER MOULTON-PATTERSON: No?

19 BOARD MEMBER JONES: I don't know. Probably

20 not.

21 MR. DE BIE: Relative to the permit, and I can

22 speak to that. If the Board concurs on the permit and

23 the LEA issues the permit, anyone could appeal those

24 decisions back up to the Board eventually for another

25 hearing.

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1           BOARD MEMBER MOULTON-PATTERSON: That's  
2 something, you know, for my knowledge that maybe we can  
3 take that up at that meeting.  
4 And I also had some questions about daily  
5 tonnage as opposed to average daily tonnage that came up  
6 when I visited Bauerman, but I'll save those questions  
7 for our workshop.  
8 Thank you, Mr. Eaton.

9           CHAIRMAN EATON: All right. Any other  
10 questions, comments?

11 MR. DE BIE: I'll conclude staff's  
12 presentation, and I'm going to make this statement: That  
13 it the Board can find that this permit is consistent with  
14 the siting element, then Board staff is prepared to  
15 recommend concurrence on the permit, recommend  
16 concurrence on the issuance on the Solid Waste Facility  
17 Permit Number 27-AA-0007.

18           BOARD MEMBER JONES: Mr. Chairman.

19           CHAIRMAN EATON: Mr. Jones.

20           BOARD MEMBER JONES: I move adoption of  
21 Resolution 2000-260 with the appropriate findings to  
22 indicate that the Board has found the proposed permit to  
23. be consistent with the California Environmental Quality  
24 Act, in conformance with the intent of the County  
25 Integrated Waste Management Plan, meets all permit

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1 requirements and is consistent with state minimum  
2 standards and, therefore, concurs in the proposed permit.

3 CHAIRMAN EATON: Second?

4 BOARD MEMBER MEDINA: Second.

5 CHAIRMAN EATON: Mr. Jones moves and Mr. Medina  
6 seconds that we adopt Resolution 2000-260.  
7 Senator Roberti.

8 BOARD MEMBER ROBERTI: I want to speak to the  
9 motion. I'm going to vote for this only with the proviso  
10 that I understand we're going to be reviewing the full  
11 policy gamut of permits when the siting element and the  
12 permit do not conform, or where the permit -- or where  
13 the requested action has taken place before we voted on  
14 it, with that in mind; also with it in mind that the  
15 applicant appears to have mitigated the most serious  
16 environmental problem, and that is the methane emissions,  
17 which makes me, in voting for this, relatively  
18 comfortable.

19 BOARD MEMBER PAPARIAN: Mr. Chairman, I'm going  
20 to abstain on this one which is more of a reflection of  
21 my preparation and knowledge on this issue than a  
22 statement on the application itself.

23 CHAIRMAN EATON: Madam Secretary, please call  
24 the roll on the permit.

25 BOARD SECRETARY: Board Members Jones.

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1 BOARD MEMBER JONES: Aye.  
2 BOARD SECRETARY: Medina.  
3 BOARD MEMBER MEDINA: Aye.  
4 BOARD SECRETARY: Moulton-Patterson.  
5 BOARD MEMBER MOULTON-PATTERSON: Aye.  
6 BOARD SECRETARY: Paparian.  
7 BOARD MEMBER PAPARIAN: Abstain.  
8 BOARD SECRETARY: Roberti.  
9 BOARD MEMBER ROBERTI: Aye.  
10 BOARD SECRETARY: Chairman Eaton.  
11 CHAIRMAN EATON: Aye. Okay.  
12 Item Number 17.  
13 MR. DE BIE: Item Number 17 is the consideration  
14 of a revised solid waste facility permit for the Chester  
15 Landfill in Plumas County.  
16 This is a 1978 permit. The Waste Management  
17 Board set a priority to update all of the permits and  
18 we're well on our goal to achieve that and here's one  
19 more step towards bringing all of these permits up to  
20 date.  
21 This particular permit will adjust the site  
22 life, will describe the type of fill that's occurring at  
23 the facility, changing it from a trench fill to an area  
24 fill. It will also indicate that the tonnage is no  
25 longer eight tons per day, but will be 44 tons per day

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1 average over the year. That's an annual average.  
2 All of the findings required have been made  
3 including findings relative to the post-closure  
4 maintenance plan and funding for post-closure  
5 maintenance, as well as operating liability.  
6 The only outstanding issue is consistency  
7 between this permit and the siting element, and our OLA  
8 staff, our Office of Local Assistance staff, have  
9 reviewed the siting element and the permit and have been  
10 unable to find the permit consistent with the siting  
11 element. So it goes to the Board relative to your policy  
12 to make a decision relative to consistency on this item.  
13 If the Board does find that the permit is  
14 consistent with the siting element, then staff is  
15 prepared to recommend concurrence on the issuance of the  
16 permit for the Chester landfill, Number 32-AA-0009. The  
17 LEA, Mr. Ernie Genter, is in the audience if you have any  
18 questions.

19 CHAIRMAN EATON: Questions of staff or the LEA?

20 BOARD MEMBER JONES: So the difference between  
21 the siting element is that it was listed at eight tons a  
22 day and now it's going to 44 tons a day.

23 MR. DE BIE: Right.

24 BOARD MEMBER JONES: Okay. Mr. Chairman.

25 CHAIRMAN EATON: Mr. Jones.

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1           BOARD MEMBER JONES: I would like to move  
2 adoption of Resolution 2000-261, consideration of a  
3 revised solid waste facility permit for the Chester  
4 landfill in Plumas County. Do I have to do the -- okay.  
5 I'm sorry. Consistent with CEQA, in conformance with the  
6 intent of the County Integrated Waste Management Plan,  
7 meets all permit requirements and is consistent with  
8 state minimum standards and, therefore, the Board concurs  
9 in the permit.

10           BOARD MEMBER MOULTON-PATTERSON: Second.

11           CHAIRMAN EATON: Mr. Jones moves and  
12 Ms. Moulton-Patterson seconds that we adopt Resolution  
13 2000-261 with all the appropriate findings.  
14 Madam Secretary, please call the roll.

15           BOARD SECRETARY: Board Members Jones.

16           BOARD MEMBER JONES: Aye.

17           BOARD SECRETARY: Medina.

18           BOARD MEMBER MEDINA: Aye.

19           BOARD SECRETARY: Moulton-Patterson.

20           BOARD MEMBER MOULTON-PATTERSON: Aye.

21           BOARD SECRETARY: Paparian.

22           BOARD MEMBER PAPARIAN: Aye.

23           BOARD SECRETARY: Roberti.

24           BOARD MEMBER ROBERTI: Aye.

25           BOARD SECRETARY: Chairman Eaton.

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1 CHAIRMAN EATON: Aye.

2 Next item. Before we get there, just for the  
3 audience, the Chair intends to get through 18, 19, 20, 21  
4 and 22 before the lunch break and come back after. So  
5 for those of you who are here for Item 23 and thereafter,  
6 we'll go to lunch and come back.

7 MR. DE BIE: I'm going to pass the baton to  
8 Virginia Rosales for the Permitting and Inspection Branch  
9 to make the next presentation on the American Avenue  
10 landfill permit.

11 MS. ROSALES: Good morning. I'm Virginia  
12 Rosales with the Permitting and Inspection Branch. Also  
13 here today for this item are Tim Casa Grande, Randy  
14 Reyes, Hank (inaudible) and the LEA, and representing the  
15 owner operator is Harris Haze, Francis Cower, James Moore  
16 of the Fresno County Planning and Resource Management  
17 Department.

18 Agenda Item Number 18 is for consideration of  
19 the revised solid waste facility permit for American  
20 Avenue Landfill. For the record, there are a couple  
21 corrections. On page 18-3 of the agenda item, under the  
22 key issues, the first bullet should read the disposal  
23 footprint to be 361 acres and not 367 acres. Also, the  
24 third bullet should read the maximum depth to be 145 feet  
25 mean sea level instead of below ground surface.



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1 In summary, the proposed changes in design  
2 operation are as follows: Increase of permitted area  
3 from 190 acres to 440 acres; define the disposal  
4 footprint to be 361 acres; increase the permitted tonnage  
5 from 1,200 tons per day to 2,200 average daily tons per  
6 day with a peak of 3,600 tons per day; specify the  
7 maximum elevation to be 288 feet mean seal level for both  
8 the active composite lined area and the proposed future  
9 fill area and the maximum depth to be 145 feet mean sea  
10 level; specify the traffic volume to be 361 vehicles per  
11 day; and then another change in the operation that  
12 inadvertently is not identified in the agenda item is the  
13 change in the operating hours from 7:00 a.m. to 5:00 p.m.  
14 to 6:00 a.m. to 6:00 p.m.

15 As an update to the agenda item, staff have  
16 determined that all the requirements of the proposed  
17 permit have been satisfied including consistency with the  
18 state minimum standards, CEQA, completeness of the report  
19 of disposal site information.

20 There is one outstanding issue. Staff of the  
21 Board's Office of Local Assistance find the proposed  
22 permit is inconsistent with the Fresno Countywide Siting  
23 Element. The proposed permit will increase the tonnage  
24 to 2,000 average daily tons per day with a peak of 3,600  
25 peak daily tons per day. The siting element lists the

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1 average tonnage at 825 tons per day and the maximum daily  
2 at 1,200 tons per day with a proposed peak tonnage of  
3 2,400 tons per day. Also, the map and the siting element  
4 shows the disposal footprint to be 30 acres. The County  
5 will continue to maintain the 15 years of capacity.  
6 In conclusion, if the Board find the proposed  
7 permit is consistent with the intent of the Countywide  
8 Integrated Waste Management Plan, staff recommends the  
9 Board adopt Resolution Number 2000-20, concurring in the  
10 issuance of Solid Waste Facility Permit Number  
11 10-AA-0009.

12 CHAIRMAN EATON: All right. Questions?

13 BOARD MEMBER MOULTON-PATTERSON: Mr. Chairman.

14 CHAIRMAN EATON: Ms. Moulton-Patterson.

15 BOARD MEMBER MOULTON-PATTERSON: I move  
16 Resolution 2000-20, with the appropriate findings to  
17 indicate the Board has found the proposed permit to be  
18 consistent with the California Environmental Quality Act,  
19 in conformance with the intent of the County Integrated  
20 Waste Management Plan, meets all permits requirement, and  
21 is consistent with the state minimum standards and,  
22 therefore, concurs in the proposed permit.

23 BOARD MEMBER JONES: Second.

24 CHAIRMAN EATON: Ms. Moulton-Patterson moves and  
25 Mr. Jones seconds that we adopt Resolution 2000-20 with

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1 the appropriate findings.

2 Madam Secretary, please call the roll.

3 BOARD SECRETARY: Board Members Jones.

4 BOARD MEMBER JONES: Aye.

5 BOARD SECRETARY: Medina.

6 BOARD MEMBER MEDINA: Aye.

7 BOARD SECRETARY: Moulton-Patterson.

8 BOARD MEMBER MOULTON-PATTERSON: Aye.

9 BOARD SECRETARY: Paparian.

10 BOARD MEMBER PAPARIAN: Aye.

11 BOARD SECRETARY: Roberti.

12 BOARD MEMBER ROBERTI: Aye.

13 BOARD SECRETARY: Chairman Eaton.

14 CHAIRMAN EATON: Aye.

15 BOARD MEMBER JONES: Mr. Chairman, just a quick

16 question to our court reporter. When I read off all

17 those ones, I said the intent of the County Integrated

18 Waste Management Plan.

19 MS. TOBIAS: Is there a way you can check your

20 record and adjust your item or just make sure it says the

21 intent, the way that Mr. Jones read it, but the

22 resolution in the item is not correct and we will be

23 correcting. it.

24 BOARD MEMBER JONES: Thank you, Mr. Chairman.

25 CHAIRMAN EATON: Item Number 19.

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1 MS. NAUMAN: Mr. Chairman and Members, Item 19  
2 is consideration of approval of new sites for the farm  
3 and ranch solid waste cleanup and abatement grant  
4 program, our SB 1330 program.  
5 The item will be presented by Scott Walker.  
6 MR. WALKER: Good afternoon, Chairman Eaton and  
7 Members of the Board. Scott Walker with the Remediation  
8 Closure and Technical Services Branch of the Permitting  
9 and Enforcement Division.  
10 A brief overview of the program, the farm and  
11 ranch cleanup grant program was enacted under Senate Bill  
12 1330, Lockyer, in 1997. SB 1330 required the Board to  
13 establish a grant program under which cities and counties  
14 may seek financial assistance for cleanup of illegal  
15 solid waste disposal sites on farm and ranch property  
16 that propose a potential threat to the public health and  
17 safety or the environment.  
18 Sites on farm or ranch property may qualify for  
19 grants only if the property owner is not responsible for  
20 the illegal disposal activity based on a determination by  
21 the local agency. Grants are limited to \$10,000 -- up to  
22 \$10,000 per site, \$50,000 per local agency per year.  
23 The Board approved scoring criteria and award  
24 process in February 1999 and also approved regulations to  
25 implement the program in January 1999 and January 2000.

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1 To date, we have -- the Board has awarded  
2 approximately \$251,000 in grants to 11 jurisdictions.  
3 Under this program they are primarily rural  
4 jurisdictions.  
5 For the fourth quarter of fiscal year 1999-2000,  
6 four applications totalling \$78,782 were received. These  
7 applications include Lake county, Santa Cruz County,  
8 Plumas County and City of Avenal. Each application  
9 received qualifying scores and were determined to meet  
10 all program criteria.  
11 In conclusion, staff recommends the Board adopt  
12 Resolution Number 2000-262 to award grants pursuant to  
13 the farm and ranch solid waste cleanup program to Santa  
14 Cruz County, Lake County, Plumas County, and City of  
15 Avenal.

16 CHAIRMAN EATON: Questions?

17 I'll move we adopt Resolution 2000-262. Second?

18 BOARD MEMBER MEDINA: Second.

19 CHAIRMAN EATON: All right. Mr. Eaton moves and  
20 Mr. Medina seconds that we adopt Resolution 2000-262.  
21 Madam Secretary, please call the roll.

22 BOARD SECRETARY: Board Members Jones.

23 BOARD MEMBER JONES: Aye.

24 BOARD SECRETARY: Medina.

25 BOARD MEMBER MEDINA: Aye.

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1 BOARD SECRETARY: Moulton-Patterson.

2 BOARD MEMBER MOULTON-PATTERSON: Aye.

3 BOARD SECRETARY: Paparian.

4 BOARD MEMBER PAPARIAN: Aye.

5 BOARD SECRETARY: Roberti.

6 BOARD MEMBER ROBERTI: Aye.

7 BOARD SECRETARY: Chairman Eaton.

8 CHAIRMAN EATON: Aye.

9 Ms. Nauman, there's no real controversy on some  
10 of these issues. If we could move through them and get  
11 to the lunch hour and the court reporter can get a break.

12 MS. NAUMAN: I'll do my best, Mr. Chairman.

13 Item Number 20 is consideration of approval of a  
14 contractor for fiscal year 1999-2000 environmental  
15 monitoring of bioaerosols from selected organic materials  
16 processing facilities contract.

17 This item is requesting that you approve the  
18 contractor for this project as emanates from Contract  
19 Concept Number 42 which was approved in October of '99  
20 and the scope of work was approved at your February 2000  
21 meeting. This continues the work that we've been  
22 conducting through Cal Poly.

23 We did solicit through an IFB, invitations for  
24 bids, and we received four packages. Two of those were  
25 disqualified, two were accepted, and we are recommending

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1 that the low bidder, Arthur D. Little be awarded the  
2 contract.

3 I need to indicate to you, however, that one of  
4 the unsuccessful bidders, one of the disqualified  
5 bidders, has filed a protest. It's being reviewed right  
6 now by the Department of General Services, so we are  
7 asking that you go ahead and approve the contractor, and  
8 then once the dispute is resolved, presumably in our  
9 favor, then we can move ahead with the actual work under  
10 the contract.

11           CHAIRMAN EATON: What's the legal standing on  
12 that, Counsel?

13 MS. TOBIAS: The --

14           CHAIRMAN EATON: Should we approve a contract  
15 where there's a dispute ahead of time?

16 MS. TOBIAS: My understanding is what the Board  
17 would be doing today is approving the contract, not  
18 awarding the contract. This would be conditional upon  
19 the denial of the outstanding protest by DGS.  
20 We have in the past couple of years attempted to  
21 make this distinction between approval and award. The  
22 award is actually when all the paperwork is in place and  
23 everything has been signed. I'm not sure that we've  
24 always been as careful as perhaps we should in these  
25 titles where it says -- mostly because generally there's

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1 not a protest over it. So to a certain extent I won't  
2 say there's been exact consistency on every single item  
3 that goes through, but I think so long as the Board  
4 understands that they are approving this conditionally  
5 subject to that protest, that that would be acceptable.

6 CHAIRMAN EATON: Members, any comments?

7 BOARD MEMBER JONES: Mr. Chairman, just one.

8 CHAIRMAN EATON: Mr. Jones.

9 BOARD MEMBER JONES: That makes a lot of sense  
10 because you don't want to stop the process by letting --  
11 somebody filing a protest. Every time we give an award  
12 of contract, I know we have three that I remember that  
13 were not even controversial. They just were appealed and  
14 we put them through conditioned on the outcome of the DGS  
15 process. I think anything less than that would make us  
16 very stagnant.

17 CHAIRMAN EATON: Mr. Evan Edgar. One speaker  
18 slip, Item 20.

19 MR. EDGAR: Chairman and Board Members, my name  
20 is Evan Edgar, Edgar and Associates, on behalf of  
21 California Refuse Removal Council.

22 CRRC represents 100 green waste collection  
23 companies and over 20 permitted green waste composting  
24 facilities. CRRC supported this concept and commends the  
25 Board for its action today. Talk about bioaerosols, it's



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1 like asperguillus fumagatis, the next potential alar  
2 scare in the apple industry. It's a very important issue  
3 but very well misunderstood, but doing this study today  
4 will help understand this issue.  
5 Back in 1993, the Waste Board issued an LEA  
6 advisory based upon the last study that was allowed  
7 mitigation by best management practices at green waste  
8 compost facilities. In 1999, Departmental Services  
9 updated that study, and once again for green waste  
10 compost facilities you can mitigate asperguillus  
11 fumagatis by best management practices.  
12 Today there's over a hundred green waste compost  
13 facilities statewide and we commend the Waste Board for  
14 doing the study because not one facility should bear the  
15 burden of it. Back in 1994, Guadalupe composting  
16 facility in Los Gatos spent over \$80,000 on asperguillus  
17 fumagatis study and is now out of business. So we  
18 commend the Board for looking at it on a statewide  
19 perspective, and if anything, one thing I would like to  
20 point out is that when the data is collected, we can  
21 bifurcate it from green waste compost facilities to  
22 sewage sludge compost facilities. My understanding is  
23 that sewage sludge compost facilities may have a higher  
24 frequency asperguillus fumagatis emissions. So when data  
25 is collected, do it statewide for all compost facilities

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1 but code the data so that green waste compost facilities  
2 can stand separate from bioaerosol compost facilities  
3 because there could be a higher emission rate from those  
4 type of facilities.

5 Thank you for your consideration today.

6 BOARD MEMBER PAPARIAN: Mr. Chairman, I'm going  
7 to support this despite the alar reference.

8 (Laughter)

9 BOARD MEMBER JONES: Mr. Chairman.

10 CHAIRMAN EATON: Mr. Jones.

11 BOARD MEMBER JONES: I would like to move  
12 adoption of Resolution 2000-264, consideration of  
13 approval of contractor for the fiscal year 99-2000  
14 environmental monitoring bioaerosols from selected  
15 organics pending outcome of the appeal.

16 BOARD MEMBER MOULTON-PATTERSON: I'll second.

17 CHAIRMAN EATON: Mr. Jones moves and  
18 Ms. Moulton-Patterson seconds that we adopt Resolution  
19 2000-264 pending the outcome.

20 Madam Secretary, please call the roll.

21 BOARD SECRETARY: Board Members Jones.

22 BOARD MEMBER JONES: Aye.

23 BOARD SECRETARY: Medina.

24 BOARD MEMBER MEDINA: Aye.

25 BOARD SECRETARY: Moulton-Patterson.

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1 BOARD MEMBER MOULTON-PATTERSON: Aye.

2 BOARD SECRETARY: Paparian.

3 BOARD MEMBER PAPARIAN: Aye.

4 BOARD SECRETARY: Roberti.

5 BOARD MEMBER ROBERTI: Aye.

6 BOARD SECRETARY: Chairman Eaton.

7 CHAIRMAN EATON: Aye.

8 Item 21.

9 MR. WALKER: Scott Walker, Permitting and

10 Enforcement Division. This item presents consideration

11 of augmentation of Contract C8092 with County of Los

12 Angeles.

13 I'll be brief in that this is a pilot illegal

14 dumping enforcement program that the Board approved in

15 1999. It's essentially to establish a model program for

16 public education surveillance and enforcement focusing on

17 two main areas, south central Los Angeles and the

18 Antelope Valley.

19 The total cost of the program is currently

20 \$321,500. The Board's funding level of the contract is

21 \$156,750. The County has requested augmentation of the

22 contract by \$40,000 to support additional surveillance,

23 public education, stake-out crews by the Sheriff's

24 Departments and also the \$40,000 is available for

25 redirection from approved Contract Concept Number 77,

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1 which is the survey of mine reclamation sites.

2 In conclusion, staff recommends the Board adopt

3 Resolution 200-265 to augment contract IWM-C8092 for the

4 pilot illegal dumping enforcement program by \$40,000.

5 CHAIRMAN EATON: Senator Roberti.

6 BOARD MEMBER ROBERTI: Mr. Chairman, I would

7 like to move Resolution 2000-265.

8 BOARD MEMBER MEDINA: Second.

9 CHAIRMAN EATON: Senator Roberti moves and

10 Mr. Medina seconds that we adopt Resolution 2000-265.

11 Madam Secretary, please call the roll.

12 BOARD SECRETARY: Board Members Jones.

13 BOARD MEMBER JONES: Aye.

14 BOARD SECRETARY: Medina.

15 BOARD MEMBER MEDINA: Aye.

16 BOARD SECRETARY: Moulton-Patterson.

17 BOARD MEMBER MOULTON-PATTERSON: Aye.

18 BOARD SECRETARY: Paparian.

19 BOARD MEMBER PAPARIAN: Aye.

20 BOARD SECRETARY: Roberti.

21 BOARD MEMBER ROBERTI: Aye.

22 BOARD SECRETARY: Chairman Eaton.

23 CHAIRMAN EATON: Aye.

24 Last item before the lunch break, Item Number

25 22.

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1 MR. WALKER: Scott Walker, Permitting and  
2 Enforcement Division. This item presents consideration  
3 of approval of proposed regulations to implement the  
4 solid waste disposal co-disposal site cleanup, or what we  
5 call the AB 2136 program.  
6 To get away from the gory details, I'll just  
7 have to say that we've been through four 15-day public  
8 comment periods. The last one was approved by the Board  
9 last month. The 15-day comment period concluded May 3rd.  
10 There were no comments received.  
11 In conclusion, staff recommends the Board adopt  
12 Resolution Number 2000-173 to approve the proposed  
13 regulations for the solid waste disposal and codisposal  
14 site cleanup program.

15 BOARD MEMBER JONES: Mr. Chairman.

16 CHAIRMAN EATON: Mr. Jones.

17 BOARD MEMBER JONES: I would like to move  
18 adoption of Resolution 2000-137, consideration of  
19 adoption of proposed revisions to the regulations for the  
20 solid waste disposal and codisposal site cleanup program,  
21 AB 2136, California Code of Regulations Title 14,  
22 Division 7, Chapter 10, Articles 1 through 7, and that's  
23 it.

24 BOARD MEMBER MOULTON-PATTERSON: Second.

25 CHAIRMAN EATON: Mr. Jones moves and

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1 Ms. Moulton-Patterson seconds we adopt Resolution  
2 2000-173.

3 Madam Secretary, please call the roll.

4 BOARD SECRETARY: Board Members Jones.

5 BOARD MEMBER JONES: Aye.

6 BOARD SECRETARY: Medina.

7 BOARD MEMBER MEDINA: Aye.

8 BOARD SECRETARY: Moulton-Patterson.

9 BOARD MEMBER MOULTON-PATTERSON: Aye.

10 BOARD SECRETARY: Paparian.

11 BOARD MEMBER PAPARIAN: Aye.

12 BOARD SECRETARY: Roberti.

13 BOARD MEMBER ROBERTI: Aye.

14 BOARD SECRETARY: Chairman Eaton.

15 CHAIRMAN EATON: Aye.

16 Okay. We'll take recess lunch and we'll

17 reconvene at 1:45.

18 (Lunch recess taken)

19 CHAIRMAN EATON: Welcome back, everyone.

20 Hopefully you had a nice, light lunch.

21 I'll start with Mr. Jones. Any ex partes to  
22 report during lunch?

23 BOARD MEMBER JONES: No.

24 CHAIRMAN EATON: Ms. Moulton-Patterson.

25 BOARD MEMBER MOULTON-PATTERSON: No.

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1 CHAIRMAN EATON: Senator Roberti.

2 BOARD MEMBER MOULTON-PATTERSON: No.

3 CHAIRMAN EATON: I said a brief "hello" to Chuck  
4 White on a procedural question with regard to Item Number  
5 23 which is before us.

6 Item Number 23, Ms. Nauman.

7 MS. NAUMAN: Thank you, Mr. Chairman and Board

8 Members. Again for the record, Julie Nauman, Deputy  
9 Director, Permitting and Enforcement.

10 Item 23 is consideration of adoption of  
11 emergency regulations for nonhazardous, nonputrescible  
12 waste disposed at permitted hazardous waste disposal  
13 facilities. Let me make a couple of introductory remarks  
14 to walk you through the regulations.

15 As you'll recall at your January, meeting after  
16 a discussion about a pending appeal from Safety-Kleen to  
17 the notice and order, cease and desist, from Imperial  
18 County, the Board directed staff to prepare emergency  
19 regulations that would slot the nonhazardous,  
20 nonputrescible type of waste that the three affected  
21 facilities were bringing into the Class I facilities.  
22 You directed us to define that waste so it  
23 reflected what waste was currently being brought into  
24 those facilities. You asked us to look at slotting it at  
25 the registration tier, which is our lowest level of

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1 permit, and also to work with the Department of Toxic  
2 Substances Control and the Water Board to be sure that  
3 the regulation package that we brought back to you did  
4 not overlap or duplicate any of the requirements or  
5 practices of either of those entities.  
6 With that direction, we then began to meet with  
7 the Department of Toxics and with the Water Board, we did  
8 some field work, all in an effort to more clearly  
9 understand how these facilities are currently regulated  
10 under the permit issued by DTSC and how our permit might  
11 work in conjunction with theirs, again in an effort to  
12 not overlap. So what we were really engaged in was what  
13 I refer to as a gap analysis, where did the Waste Board  
14 need to plug in with our standards or our operating  
15 standards in order to ensure full protection of the  
16 public health and safety and the environment.  
17 We also had a number of meetings with the  
18 industry representatives, stakeholders which included  
19 Safety-Kleen and Waste Management, in conjunction with  
20 the three effected LEAs from Imperial County, Kings  
21 County and Kern County, and we worked through a couple of  
22 drafts with them.  
23 We're bringing before you today the results of  
24 those efforts, which we have tried to streamline so that  
25 we are again only dealing with the areas where there is  
130

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1 clearly no overlap with the current requirements under  
2 the IDTSC permit for these facilities.  
3 There is one issue that I want to highlight for  
4 your attention, however, in this discussion, and that has  
5 to do with the issue of closure post-closure plans and  
6 the associated financial assurance mechanisms that are  
7 attendant to those plans. The Department of Toxics  
8 regulates these facilities very closely and in the area  
9 of closure and post-closure is responsible for the  
10 development and approval of the closure and post-closure  
11 plans, the approval of the financial assurance mechanisms  
12 associated with those plans, and then with the activities  
13 of closure and post-closure.  
14 In our gap analysis, we did not see any area  
15 that was unaddressed where the Waste Board would step  
16 forward. So what I want to point out to you is the  
17 staff's reasoning in how we came to a conclusion with  
18 respect to the financial assurance mechanisms.  
19 As you'll recall, in September of last year, the  
20 Board adopted a resolution that addressed the use of  
21 captive insurance as a financial assurance mechanism, and  
22 just to shorthand it, the decision that you made at that  
23 time was that. where the Waste Board issued the permit,  
24 and you were approving closure and post-closure plans, we  
25 would not allow a captive insurance to be an acceptable

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1 financial assurance mechanism.

2 When we went through the development of this

3 regulation package, again looking at it from a gap

4 analysis perspective, staff came to the conclusion that

5 while it would be inconsistent -- and I want to be clear

6 we recognize it would be inconsistent -- we are prepared

7 to recommend to you that in this limited situation where

8 actually this requirement would only apply to one

9 facility, that's the Chemlite facility operated by Waste

10 Management, that you allow the Department of Toxics to

11 continue to regulate in this area of closure and

12 post-closure and the associated financial assurance

13 mechanism.

14 So in short what we're suggesting is that you

15 would, by virtue of being silent in the regulations on

16 the issue of closure and post-closure and financial

17 assurance mechanisms, you would not impact the Chemlite

18 Waste Management facility and require that they change

19 out their existing captive that they are using at that

20 facility for one of the more preferred financial

21 assurance mechanisms.

22 So if you have any questions on that particular

23 issue, I would be happy to answer them at this point. I

24 wanted to give you that as a backdrop before we started

25 walking through the requirements of the reg package.

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1           BOARD MEMBER ROBERTI: Mr. Chairman, I guess the  
2 question for me is along the lines of what we've been  
3 talking about in the past on captive. What again would  
4 be the difference as to why we would sort of on this  
5 issue, on this agenda item, change our policy?  
6 MS. NAUMAN: Let me answer that in maybe two or  
7 three different ways. One, the Board has traditionally  
8 had a policy or operated under a policy of not making  
9 policy on the basis of a permit. I would -- one argument  
10 that you may consider is that this regulation package and  
11 the issue of use or not to use captive insurance really  
12 only affects one facility. That's the Waste Management  
13 facility. So one argument would be that you not use this  
14 reg package to affect one facility's permit.  
15 Another response I would have for your  
16 consideration is that this is a very unique situation  
17 where, for the first time, we are considering a  
18 regulation package where our permit needs to be issued in  
19 a situation where you already have a permit from DTSC and  
20 that DTSC is regulating in this area. It has  
21 jurisdiction over the closure post-closure plan and that  
22 the financial mechanism goes along with that whole  
23 package, if you will.  
24 Thirdly, something I didn't mention earlier was  
25 when we were meeting with the Department of Toxics, they

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1 indicated -- and this is not necessarily at the director  
2 level but at the mid-management level -- that they are  
3 undergoing some discussions currently with respect to the  
4 continued use of captive and that they're involved in  
5 policy discussions that at least at the mid-management  
6 level they believe might eventually lead to the  
7 promulgation of regulations that would preclude captives  
8 for the hazardous waste facilities that are regulated  
9 under the DTSC permits.  
10 So with that prospect and the fact that what  
11 we're dealing with here is emergency regulations, the  
12 eventual resolution of the issue and question of  
13 consistency between Waste Board and DTSC may resolve  
14 itself during the period of time that we're in the formal  
15 rulemaking process. After we've filed these as emergency  
16 regulations, we'll immediately begin the process of a  
17 formal rulemaking process which will probably take  
18 somewhere around six months, and during that period of  
19 time DTSC may move policy-wise on this issue.  
20 So those are just suggested things you might  
21 consider.

22 BOARD MEMBER ROBERTI: Department of Toxics,  
23 were they involved in any of the past issues where we  
24 made it clear that we weren't going to accept captive  
25 insurance anymore?

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1 MS. NAUMAN: Mr. Chandler did communicate in  
2 writing to the Director of the Department, and perhaps  
3 you would like to address that.

4 MR. CHANDLER: Let me -- Members, I made this  
5 call. Julie came to me and said we've got a jump ball  
6 here. We can go either way. How should we do this? And  
7 I made the decision how we would like to change the words  
8 or modify of words. This wasn't a decision to allow the  
9 Department of Toxics to (inaudible) mechanisms. This was  
10 a call on my part to defer to the Department of Toxics  
11 the existing process and procedures.

12 The difference, Senator, between this issue and  
13 last September is last September's issue dealt with  
14 facilities that we oversee closure plans for, Class III  
15 facilities, municipal solid waste facilities that we  
16 permit. We oversee those closure plans and we're  
17 responsible for the approval of the appropriate closure  
18 mechanism.

19 The distinction here is that this is hazardous  
20 waste facility permitted by the Department who oversees  
21 the closure plans and has the discretion, in my view, to  
22 decide what are appropriate financial assurance  
23 mechanisms or appropriate for this type of facility. So  
24 what Julie has pointed out we concluded in our gap  
25 analysis was that the Department is really the lead

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1 agency in the review and approval of those closure plans  
2 and, therefore, we would defer to them as the lead agency  
3 to decide what appropriate closure mechanisms they wanted  
4 to continue to allow.

5 Having said that, I felt comfortable also in  
6 pointing out on the record both to Cal/EPA and to  
7 Mr. Lowry in writing that we saw a policy inconsistency  
8 between the Waste Board and the Department of Toxics as  
9 it related to the types of mechanisms that are being  
10 allowed to various hazardous and nonhazardous waste  
11 facilities, and he's assured me the staff is looking at  
12 the issue, but as it stands right now, the Department  
13 still allows captive insurance at hazardous waste  
14 facilities. This is a hazardous waste facility, so we  
15 are deferring to the Department's good judgment to  
16 continue to look at that issue, and perhaps in this  
17 Director's view, come to a realization that maybe that  
18 kind of mechanism deserves reevaluation by the  
19 Department, but at this time we chose not to force our  
20 policy criteria, if you will, on a hazardous waste  
21 facility on the Department.

22 BOARD MEMBER ROBERTI: What would happen if we  
23 reject it?

24 MR. CHANDLER: If we did, we would essentially  
25 be asking them to swap out their existing captive

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1 insurance mechanism with a more -- let's just say with a  
2 mechanism that this Board has found appropriate at  
3 nonhazardous waste facilities, and that would be an  
4 expense to that company and would be essentially asking  
5 that our policy be governing at hazardous waste  
6 facilities.

7           CHAIRMAN EATON: I would disagree with you in  
8 that characterization, quite frankly. The issue here is  
9 they have municipal solid waste as defined going into a  
10 landfill; correct? And that they need to have a permit,  
11 so our permit rules concurrent jurisdiction; does it not?

12 MR. CHANDLER: Our permit rules with respect to  
13 that disposal of nonhazardous waste.

14           CHAIRMAN EATON: Right. Concurrent jurisdiction  
15 as it relates to that because they have jurisdiction over  
16 their (inaudible). So the mechanism that should have  
17 been in this in my opinion, since I led the captive along  
18 with Senator Roberti here, is not to make an inconsistent  
19 proposal, but simply require whatever the percentage is  
20 to host whatever mechanism is there. And I don't think  
21 that that's an unreasonable situation, especially since  
22 that as the government statute permits, it's not only  
23 inconsistent with our policy but their captive doesn't  
24 even meet the statutory requirement that allows them to  
25 use it in our case currently.

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1 MR. CHANDLER: Ms. Nauman made sure she pointed  
2 this out because we wanted you to be aware of the  
3 inconsistency. I wanted you to be aware of my rationale.  
4 Flawed as it may be, I felt it would be appropriate to  
5 defer to the Department because what I think you will  
6 agree with me on is that they are the agency responsible  
7 for the closure plan, approval of which this facility  
8 will be governed by and the mechanisms that fund that  
9 closure plan.

10 CHAIRMAN EATON: If we had required them to have  
11 a full permit, which is what this Board originally was  
12 requiring to have, what kind of financial assurance would  
13 they have had to have then? Would they have had -- would  
14 we simply have had to defer to the captive as well?

15 MR. CHANDLER: What kind of financial assurance  
16 would they have from who?

17 CHAIRMAN EATON: Remember, the whole issue here  
18 is whether or not a full permit seemed to be too much for  
19 them. So under that mechanism, if we were going to  
20 require them and say we didn't want to do this special  
21 kind of tiered situation for them, we were going to  
22 require a full permit, as contentious as it was, we  
23 believed they needed a full permit (inaudible). If that  
24 would have been the case, they would have had to comply  
25 with our financial assurances; correct?



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1 MR. CHANDLER: And they would also be arguing  
2 that they would have to comply with the Department of  
3 Toxics financial assurances.

4 CHAIRMAN EATON: Right. And under our scheme  
5 they would have had -- they could not have had captive  
6 insurance available to them.

7 MR. CHANDLER: That's --

8 CHAIRMAN EATON: So now that we dropped them  
9 down into tier, what in your mind gives them the ability  
10 that's different to utilize to defer to Toxics?

11 MR. CHANDLER: Because I'm distinguishing  
12 between the ability --

13 CHAIRMAN EATON: All you did was move it from a  
14 tier. You moved it from a full permit to one that's less  
15 restrictive.

16 MR. CHANDLER: I guess I'm not conceding that  
17 even if these were a full permit there would still be the  
18 legitimate argument that there isn't a separate cell that  
19 municipal solid waste it's going into, even under a full  
20 permit. So we can't carve out a particular area and say  
21 that cell will be governed by our permit, our policies  
22 and our financial assurance mechanisms and we will  
23 approve the closure plan.

24 As I understand it, the waste is disposed of in  
25 the entire footprint that would still be governed, even

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1 under a full permit from the Board, by DTSC's permit and  
2 their closure plan and, therefore, their financial  
3 assurance mechanisms.

4 It's a good policy call for this Board to  
5 debate. That's why Julie is bringing it forward. I'm  
6 just trying to give you the rationale for why we're  
7 silent in that area. Obviously it's the discretion of  
8 the Board to decide if that inconsistency is so apparent  
9 that we ought to be revising the regulations, but I  
10 didn't want it to go unsaid and that's why Julie is  
11 putting it forward, that we are showing a lack of  
12 consistency in our --

13           CHAIRMAN EATON: I think it's important that we  
14 remain consistent, especially since other types of  
15 financial mechanisms that are available to those  
16 companies are very minimal cost. And I think Mr. White,  
17 if he comes up and testifies, can tell us how much he had  
18 to pay. Rumor on the street was whether several millions  
19 dollars or hundreds of millions of dollars of insurance  
20 that they had to forego, in terms of mechanisms for some  
21 of the others it was nickels and dimes, and I want to  
22 know why we weren't at least consistent from that  
23 standpoint.

24           BOARD MEMBER JONES: I have a question. I --  
25 this is a hazardous waste facility. This is not a

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1 municipal solid waste facility. This will be a hazardous  
2 waste facility from now until eternity and DTSC is the  
3 governing body for a hazardous waste facility. There was  
4 an agreement between three agencies that said this  
5 diminimus amount of material, solid waste not strictly  
6 hazardous, could go to two facilities. We are changing  
7 that policy -- we're refining it because it's a  
8 20-year-old policy but it is still a hazardous waste  
9 facility.  
10 Our closure post-closure requirements are mooted  
11 by the conditions that are set forward in a hazardous  
12 waste facility. I don't -- I particularly am not going  
13 to look at a sister agency and say we're right and you're  
14 wrong when they are the overriding permitting authority  
15 and enforcement authority for that facility. This is not  
16 a municipal solid waste landfill.

17           CHAIRMAN EATON: We shouldn't probably put  
18 municipal solid waste in it, then. That's the option; is  
19 it not? In the MOU, if you remember, Steve, was the  
20 whole bone of contention, whether or not that was valid.  
21 And that's how this whole issue started. So to bring it  
22 up and try and use that as an argument begets the  
23 question of •why we're here today. The reason why we're  
24 here today is because there was a legitimate reason as to  
25 whether that MOU was valid. So we weren't substituting

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1 the judgment of Toxics, we were simply try to do is  
2 accommodate putting municipal solid waste in a facility.

3 BOARD MEMBER JONES: Solid waste nonputrescible.

4 CHAIRMAN EATON: Right. The fact of the matter  
5 is so we do have -- so we're not substituting  
6 jurisdiction. In fact, that was the whole dispute as it  
7 related to the MOTJ. So the question really becomes do we  
8 want to be consistent, and that's the issue.

9 BOARD MEMBER JONES: We are a subordinate permit  
10 to that permit. We are subordinate to that. The  
11 hazardous waste standards are 20 times more strenuous and  
12 onerous than any we have.

13 CHAIRMAN EATON: Which is the only reason we  
14 want financial assurances that are not based upon stock.

15 BOARD MEMBER JONES: I have enough faith in DTSC  
16 and that organization to make that determination. One of  
17 the things I brought up in my briefing was that DTSC  
18 needs to make a policy call on this thing on their own  
19 time. We're the Waste Board that has some fraction of  
20 that wastestream that's being delivered to that facility  
21 and we're going to throw out their protocol for our  
22 protocol because we think we have a better protocol.

23 CHAIRMAN EATON: Not true.

24 BOARD MEMBER JONES: That is absolutely  
25 outrageous.

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1           CHAIRMAN EATON: That's a mischaracterization.  
2 We are simply saying that as it relates to our permit,  
3 which even you agreed, they were required to have to put  
4 that in there.

5           BOARD MEMBER JONES: First off, don't put words  
6 in my mouth. I'm not sure that I do agree. I've been  
7 messed around enough by having existing policies that  
8 were issued by the state of California departments and  
9 then when somebody chose to change it, I had to change  
10 the way I did business. That's just -- that's life in  
11 the real city.

12          BOARD MEMBER ROBERTI: Mr. Chairman, I would  
13 like to ask staff if there is an accident at one of these  
14 facilities and that accident can in some ways be shown to  
15 be attributable to the way that municipal solid waste,  
16 garbage, was managed, what is -- which policy would stand  
17 to be liable?

18 MS. NAUMAN: If I might, before I answer the  
19 question, could I just for the record clarify for  
20 everyone here that we are not talking about municipal  
21 solid waste. This is not garbage. This is an effort to  
22 recognize that there are nonhazardous, nonputrescible  
23 industrial wastes that have been going into these  
24 hazardous waste facilities permitted by DTSC. Just to  
25 clarify.

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1           BOARD MEMBER ROBERTI: So these are  
2 nonhazardous.

3           CHAIRMAN EATON: Like the southeastern waste  
4 from southeast Asia. Is that the waste we're talking  
5 about? That's how the issue arose; is it not? That's  
6 how the issue arose as it relates to a couple of  
7 facilities; is it not?

8 MS. NAUMAN: No. It was sludge going into the  
9 facility.

10          CHAIRMAN EATON: And there was southeastern  
11 waste slated to go there as well.

12 MS. NAUMAN: You may be correct.

13          BOARD MEMBER ROBERTI: Nonputrescible.

14 MS. NAUMAN: Nonhazardous, nonputrescible  
15 industrial, and there's an extensive definition that we  
16 crafted to try and capture the types of materials that  
17 were going into the facilities. I think you'll hear from  
18 some of the operators in a moment that they would like to  
19 see the definition --

20          BOARD MEMBER ROBERTI: And under no  
21 circumstances does municipal solid waste --

22 MS. NAUMAN: That's correct.

23          BOARD MEMBER ROBERTI: So it's a specific type  
24 of waste --

25 MS. NAUMAN: Yes.

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1 BOARD MEMBER ROBERTI: -- that falls into this  
2 nonputrescible nonhazardous industrial.

3 MS. NAUMAN: That's correct. Now with respect  
4 to the --

5 BOARD MEMBER ROBERTI: Now let's say that's  
6 managed poorly, whatever we call that, we must have a  
7 word for that. Industrial waste.

8 MS. NAIJMAN: It would be my understanding, and  
9 there may be others who might want to correct me, but I  
10 would assume that the corrective action insurance that  
11 would be in place under the DTSC permit would address  
12 that. Permits generally carry operating liability  
13 insurance, corrective action, closure and post-closure.  
14 So we wouldn't be talking about the closure post-closure.

15 BOARD MEMBER ROBERTI: So is there any insurance  
16 that the operator of the landfill would have to obtain  
17 that would be geared specifically to the types of waste  
18 that we manage?

19 MS. NAUMAN: I would think that the insurance  
20 that they carry would cover all activities at the  
21 facility and that's again why --

22 BOARD MEMBER ROBERTI: So we're talking about  
23 one policy only.

24 MS. NAUMAN: Yes.

25 BOARD MEMBER ROBERTI: And the issue is, to the

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1 extent that we refuse the issue, to what extent we'll  
2 grant or refuse to grant a permit for a facility that is  
3 taking both industrial waste and hazardous waste. What  
4 I'm trying to find out is if something goes wrong, who  
5 gets the black eye?

6 MS. NAUMAN: Again, I believe that it would fall  
7 back to the corrective action, the insurance for  
8 reasonable and foreseeable instances that would kick into  
9 place, and that's a requirement of DTSC. Again, in the  
10 gap analysis, we didn't see any area where there wasn't  
11 coverage as we would expect there to be coverage under a  
12 solid waste facility permit.

13 BOARD MEMBER ROBERTI: Well, I'm really on the  
14 cusp on this one, but I'm tending to lean a little bit  
15 against voting for it.

16 CHAIRMAN EATON: Perhaps maybe, Senator --

17 BOARD MEMBER ROBERTI: Let me just explain why,  
18 and I think you touched upon it, Mr. Chairman, a little  
19 bit briefly. That is that captive insurance to some  
20 extent depends upon the stock price of the company  
21 involved. I know they try to argue that it doesn't, but  
22 it does. Their ability to raise money depends upon their  
23 stock price.. Waste Management is a fine company but  
24 their stock, the last I heard, it was cut in half.  
25 The entire credibility of this agency if



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1 something serious goes wrong could be called into  
2 question if something goes wrong and then somebody says  
3 and the captive insurance company went under and look  
4 what those yo-yos did on the Integrated Waste Management  
5 Board, and for that matter the Department of Toxic  
6 Substances. They allowed a company whose stock was cut  
7 in half by the market to self-insure itself.  
8 I don't know. It's very, very risky, not only  
9 because I worry about my own reputation, but I worry  
10 about the ability of this Board to conduct its business,  
11 if we have so compromised ourselves. So now that I'm  
12 talking more and more, I hate telling a sister agency  
13 what they can or cannot do, but in this case I would  
14 rather err -- I think I would rather err on the side of  
15 caution.

16           CHAIRMAN EATON: If I may suggest something in  
17 terms of trying to take in Mr. Jones's comments as well  
18 as yours without trying to infringe upon DTSC. Let us  
19 not forget the situation that arose, which was that  
20 originally they would have had to come in for a full  
21 solid waste facility permit. We have simply come up with  
22 a hybrid which would facilitate what we felt in our own  
23 wisdom that may have been far too much for them to do  
24 given DTSC as required in their permit process.  
25 The question becomes we crafted and the

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1 attorneys crafted and the stakeholders and the various  
2 local governments a way that this would come and that's  
3 part of our tiered process; is that not correct?

4 MS. NAUMAN: Mr. Chairman, if I might offer a  
5 comment. I just wanted --

6 CHAIRMAN EATON: Is that correct?

7 MS. NAUMAN: That we did work together and tried  
8 to craft --

9 CHAIRMAN EATON: It's a special kind of permit.  
10 It's not a full permit.

11 MS. NAUMAN: This is a registration permit.

12 CHAIRMAN EATON: And as the registration permit  
13 we have the ability as a Board not to impose upon DTSC,  
14 but to impose upon those who would come to this Board for  
15 a permit under the registration tier to craft those  
16 particular items that make up a registration permit. One  
17 of those items could be a financial assurance section not  
18 based on captive insurance. It's a small amount of  
19 money. Could we not?

20 MS. NAUMAN: I believe you could.

21 CHAIRMAN EATON: Correct. So that would be a  
22 way to avoid Mr. Jones's problem of infringing upon DTSC,  
23 solves the problem in terms of consistency, and also for  
24 us, at least in the end, to not have the problem of  
25 captive insurance until such time if our sister agency at

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1 some point in the future becomes enlightened or finds  
2 that there's something or we reevaluate our own position.  
3 That would solve the problem and protects  
4 everyone. It's a very small part, a condition of a  
5 registration. Hell, if they had to come for a full  
6 permit, wouldn't they have to have some financial  
7 assurance as well?

8 MS. NAUMAN: They wouldn't have to have  
9 financial assurances. We don't make a distinction in the  
10 tiers now between registration, standardized and full.  
11 Our requirements for financial assurances are the same  
12 across the board.

13 CHAIRMAN EATON: But this is an issue at the  
14 beginning. After you do this here, the next step is when  
15 the inert registration permits come in, and that's a  
16 whole series of characteristics as well. There is no  
17 DTSC. At that point, that's the Department of Mines and  
18 Reclamation; is it not?

19 MS. NATJMAN: To a certain degree, yes.

20 CHAIRMAN EATON: So we're back in the same  
21 situation. All I'm saying is make it part of the  
22 criteria, if we wanted to, and that would solve the  
23 problem for that percentage of nonputrescible waste  
24 that's put in. It's got to be a very small amount.

25 BOARD MEMBER JONES: So your solution is they

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1 can keep captives anywhere from 40 percent to 99 percent  
2 of the wastestream and put in a cash bond for the one  
3 percent or whatever that number is.

4           CHAIRMAN EATON: We don't have jurisdiction over  
5 the other.

6           BOARD MEMBER JONES: Exactly.

7           CHAIRMAN EATON: That's what I'm trying --

8           BOARD MEMBER JONES: That's what I'm trying to  
9 figure out. What I'm not sure -- you know, we're  
10 assuming that these emergency regulations solve the  
11 problem. I think if I was the operator I would go ahead  
12 with the AB 59 appeal first.

13          CHAIRMAN EATON: I don't think that's where they  
14 want to go.

15          BOARD MEMBER JONES: I would because there's two  
16 things. Mr. Quick cannot put conditions on a  
17 registration permit. We were trying to do that to make  
18 sure that they were covered in these regulations, but it  
19 just -- it -- it's a great thing to have a Board to get a  
20 lot of different points of view. It is a great thing to  
21 go through the process.

22 If we are going to go through the process, then  
23 I don't think we need emergency regs. I think what we  
24 need to do is either go through the full regulatory  
25 package so the public can participate in how we're going

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1 to put this thing together because under emergency regs,  
2 we've done it ourselves and said, 'Here. Live with it,"  
3 and we don't agree on this dais as to how we're going to  
4 live with it. So we've excluded part of the public  
5 process.  
6 And then I'd like to get somebody to tell me if  
7 it's just because an agreement is old that it's no longer  
8 valid because the constitution is pretty damn old and  
9 other agreements are old. If we don't make a  
10 determination on one that is entered in with the Health  
11 Department, the Waste Board and the Department of Toxics,  
12 and we've determined now that we're going to revisit that  
13 thing in these regulations, I'm still not convinced that  
14 original document that people put an entire industry  
15 together based on gets thrown out so that we can add  
16 our -- and remember. I voted to not allow captive  
17 insurance in the state of California and I absolutely  
18 stand by that. I am proud of that decision, but I also  
19 have a feeling that the authority, as I see it, is on  
20 municipal solid waste landfills, not on DTSC's Class I  
21 sites because I don't want them coming into our house  
22 telling us how to operate our facilities.

23           CHAIRMAN EATON: But we're not.

24           BOARD MEMBER JONES: We are when we condition on  
25 something that's already theirs. We are absolutely

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1 telling them how to manage their department.

2           CHAIRMAN EATON: Then I think what you're  
3 advocating is we should not do anything and take up the  
4 AB 59 appeal.

5           BOARD MEMBER JONES: No. What I'm saying is we  
6 either say this is a sister agency, we have a subordinate  
7 position here, we don't have any voice in closure  
8 post-closure of this facility. A Class I landfill is a  
9 Class I landfill forever. We do not have any input into  
10 how that facility is going to be closed. That's their  
11 job.

12           CHAIRMAN EATON: Do you think there should be a  
13 permit for that facility for the waste that we have  
14 jurisdiction over?

15           BOARD MEMBER JONES: What they're asking for --

16           CHAIRMAN EATON: That's --

17           BOARD MEMBER JONES: Danny, I can answer the  
18 question. I don't need to be chopped at.

19           CHAIRMAN EATON: Sure. So does it need a  
20 permit? That's all I'm asking.

21           BOARD MEMBER JONES: I'm not sure that I've ever  
22 been answered that that variance wasn't enough.

23           CHAIRMAN EATON: That's what I'm saying, do you  
24 want to go back to the AB 59 appeal.

25           BOARD MEMBER JONES: It isn't -- you know, I

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1 don't want to speak for the operator. Truthfully, guys,  
2 that's your battle. This is bigger than that in my mind.  
3 This is about us putting our conditions on another  
4 agency's permit and that bothers me, if we're comfortable  
5 with that.

6           CHAIRMAN EATON: And that's why we have to  
7 return to the AB 59 because that was the issue on the  
8 appeal. That's all I'm saying. That's a legitimate  
9 position to have. If that's where you want to go, after  
10 all it was the operators who came and said we don't  
11 really want to run the risk of taking that legal  
12 argument. Everyone felt that they had strong attorneys,  
13 but in the end it was better judgment and said we'll come  
14 up with a different solution, i.e., the registration,  
15 thereby granting the fact that a permit was necessary.  
16 So that's what I was saying, but if you want to  
17 go back to AB 59 --

18           BOARD MEMBER JONES: And I agree with that, but  
19 what I'm having a hard time understanding is when our  
20 diminimus amount of waste overrides DTSC's fiduciary  
21 responsibility to the people of California that manage a  
22 Class I facility, and I just don't think we're seeing the  
23 difference in conditions.

24           CHAIRMAN EATON: Perhaps we should hear from the  
25 public then.

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1           BOARD MEMBER PAPARIAN: Could I ask a few  
2 clarifying questions of staff? These are emergency  
3 regulations that would go into effect for 120 days and  
4 the intention is to follow this by the full regulations.  
5 If we were to adopt these as is, I assume I'm  
6 right in saying we can revisit this issue in the full  
7 regulatory package if we were -- if we went in that  
8 direction, we could visit this issue and do what we want  
9 in the full regulatory package.

10 MR. CHANDLER: That's correct, Mr. Paparian.  
11 anticipated this kind of discussion might ensue. Julie  
12 and I actually role-played it out a little bit and I said  
13 if it's clear that the Board is not comfortable with  
14 being consistent with the September policy, one option  
15 could be to direct the staff that if the Department  
16 hasn't visited this issue, when it comes time to  
17 promulgate the permanent regulations, have some direction  
18 at that time to deal with the inconsistency.

19 But you're right. These are emergency  
20 regulations that would be in effect where we would then  
21 be under the requirement -- is it within 120 days,  
22 Kathryn? To promulgate permanent regulations at whatever  
23 scope and direction the Board feels is appropriate --

24           BOARD MEMBER PAPARIAN: A couple other quick  
25 clarifying questions.



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1 Ms. Nauman, you said that you were expecting the  
2 process for development of the full regulations would  
3 take about six months.

4 MS. NAUMAN: It depends on -- I did say that,  
5 and I said that because there are often times we start  
6 with the 45-day comment period and then we have  
7 successive 15-day comment periods. You saw a package  
8 before lunch this morning where we had four 15-day  
9 comment periods. Sometimes a regulation package can take  
10 up to a year.

11 I was anticipating given the work we've already  
12 completed on this package that we would be on the shorter  
13 end of the time frame. I recognize 120 days, usually you  
14 can get extensions from Office of Administrative Law if  
15 you're showing good progress in promulgating these  
16 permanent, but we would be moving as quickly as possible  
17 to get into the 45-day public review and comment period.

18 BOARD MEMBER PAPARIAN: OAL typically allows for  
19 one extension.

20 MS. NAUMAN: I'm going to defer to Elliott on  
21 that because he's kind of the expert on getting  
22 extensions for packages.

23 MS. TOBIAS: I think generally we've seen one or  
24 two at the most, so they will look at your process and  
25 they'll want to see whether you're making progress or

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1 not. So they're in 120-day increments and there would be  
2 one or two extensions.

3 BOARD MEMBER PAPARIAN: Okay.

4 My last question is do we know -- we're talking  
5 about two or three facilities that are effected in  
6 California?

7 MS. NAUMAN: We're talking about three  
8 facilities, only one of which carries a captive.

9 BOARD MEMBER PAPARIAN: Right. Do we know the  
10 percentage of solid waste that's going into these  
11 facilities in each of the cases?

12 MS. NAUMAN: That's another issue that I think  
13 will be addressed further in the testimony. The short  
14 answer is not really. There have been some discussions  
15 in the development of these regulations about a concept  
16 of proposing a cap whereby there would be some definitive  
17 amount of nonhazardous, nonputrescible industrial waste  
18 that would be allowed into these facilities.  
19 These regulations we have before you now do not  
20 address that issue. So it's open-ended how much of this  
21 nonhazardous waste could go into the hazardous waste  
22 facility.

23 BOARD MEMBER PAPARIAN: If these are adopted,  
24 will we have a way of knowing how much is going in?

25 MS. NAUMAN: Yes. We are requiring that the

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1 operators keep records and work around that too because  
2 we also will be imposing our \$1.34 per ton tip fee on the  
3 nonhazardous waste that's going into the facility. They  
4 will be keeping records and our LEAs will be inspecting  
5 to be sure those records are kept current.

6           CHAIRMAN EATON: Part of the whole argument  
7 originally was whether or not fees ought to be paid upon  
8 this and back fees and what have you. So as the appeal  
9 came up, the parties said there's all kind of inequities,  
10 here; one, whether or not we need to go back and get  
11 \$1.34 because there's been no question that certain  
12 materials that went into these facilities were eligible  
13 for the imposition of the fee. So they -- some parties  
14 gave on the fact they didn't want to come and test the  
15 legal arguments. Others gave on the fact that perhaps  
16 (inaudible)

17 I guess one of the ways that we could actually  
18 propose it, and we'll hear from the public, but we could,  
19 as Mr. Chandler said, be silent on the issues of  
20 financial assurance. And I don't think that would hurt  
21 anyone, if that's acceptable. Sometimes silence is  
22 golden at this particular point, but that would solve the  
23 problem and act as a placeholder, at least for our  
24 position, but obviously we haven't heard from the public.

25           BOARD MEMBER ROBERTI: Excuse me. Why do we

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1 have to have emergency regulations at all? Doesn't that  
2 curtail public participation to some expense?  
3 MS. NAUMAN: Well, there is public participation  
4 that has occurred to this point in time and this meeting.  
5 It was your Board's direction, and I think it was based  
6 on the fact that the parties to the appeal, Safety-Kleen  
7 in Imperial County agreed that they would in essence --  
8 Safety-Kleen would stay its appeal pending the  
9 development of regulations, and it was your Board's  
10 direction that we pursue those on an emergency basis to  
11 get some resolution to those as quickly as possible.  
12 Mr. Chairman, if I might ask that we finish the  
13 staff presentation before you call for public testimony.  
14 If there are no more questions of me, I would like to  
15 turn this over to Virginia Rosales.

16 BOARD MEMBER MOULTON-PATTERSON: Mr. Chairman, I  
17 had one question. Is the financial assurance, is it  
18 based on cost estimates for closure post-closure? Is it  
19 possible to even do percentage or is it based on --

20 MS. NAUMAN: It's based on the plan. There are  
21 actual cost estimates in the plan and that determines how  
22 much a financial assurance you have to carry. If it's \$2  
23 million, that \$2 million can be represented in the form  
24 of a captive or in the form of a pledge of revenue or in  
25 the form of a letter of credit.

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1 There are various mechanisms, but the amount of  
2 it is determined by the plan.

3 Thank you, Mr. Chairman. Virginia.

4 MS. ROSALES: Virginia Rosales with the  
5 Permitting and Inspection Branch. As Julie mentioned,  
6 the intent of these regulations is not to overlap or  
7 duplicate Toxics or the Water Board. With that, I'll  
8 just jump into the key components of the regulation  
9 package.

10 The definition of the waste types, which is the  
11 nonhazardous, nonputrescible industrial solid waste, was  
12 crafted based upon the direction from the Board and also  
13 with the input of the facilities with the types of waste  
14 they are currently receiving. It was also in  
15 consultation with Toxics, so that's how that definition  
16 is defined.

17 Also, the -- these proposed regulations place  
18 these DTSC-permitted Class I facilities accepting these  
19 nonhazardous, nonputrescible industrial solid wastes into  
20 the registration tier, and the registration tier was  
21 found to be the most appropriate level of regulatory  
22 oversight by using the Board's general methodology, and  
23 the decision was also based upon discussions with Toxics  
24 and Water Board staff, a detailed review of their  
25 requirements and restrictions placed on the Class I

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1 facilities.

2 Additionally, staff had the opportunity to  
3 shadow the Toxics enforcement staff during a recent  
4 inspection of the Safety-Kleen facility in Buttonwillow,  
5 and we find that Toxic's standards either meet or exceed  
6 the Board's standards. The --

7 BOARD MEMBER ROBERTI: Standards for what?

8 MS. ROSALES: The minimum standards, the  
9 operating standards.

10 BOARD MEMBER ROBERTI: For the closure  
11 post-closure itself; am I right?

12 CHAIRMAN EATON: Operations.

13 BOARD MEMBER ROBERTI: For the operations, but  
14 not for the insurance mishap.

15 MS. ROSALES: It's for your litter, dust, your  
16 security, those types.

17 BOARD MEMBER ROBERTI: The precautionary things.

18 MS. ROSALES: Yes.

19 BOARD MEMBER ROBERTI: But their standards do  
20 not exceed our standards. You're not saying their  
21 standards exceed our standards as to the requirement  
22 demanded in an insurance policy.

23 MS. ROSALES: No, I'm not saying that.

24 BOARD MEMBER JONES: Not that part.

25 BOARD MEMBER ROBERTI: We're talking about two

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1 different things. I will concede because of the nature  
2 of the thing regulated that the Department of Toxics  
3 certainly, I would hope, has standards that are in excess  
4 of ours, but it does not appear that to be the case  
5 where -- when we're dealing with insurance itself, the  
6 insurance aspect, that they have standards there.

7 MS. ROSALES: These are just --

8 BOARD MEMBER ROBERTI: I understand. I'm not  
9 quarreling with your presentation. I just want to make  
10 the point that we have to deal with apples and we have to  
11 deal with oranges.

12 MS. ROSALES: Sure. So what the regulation  
13 package also contains are the record keeping requirements  
14 since as I just mentioned, since the daily operation  
15 standards are already covered under Toxics, our  
16 regulations focus more on the record keeping and that's  
17 to ensure that the registration permit, that the facility  
18 would continue to be eligible for that registration  
19 permit and that would -- to continue to be eligible for  
20 the registration permit.

21 In the regulations, as Julie mentioned, we did  
22 work through with different versions in meeting with the  
23.. stakeholders and so there were some minor cleanups in  
24 your package here. We did have a strike-out and  
25 underlined version that was going, so there are a couple

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1 minor changes that we need to make. In light of trying  
2 to save some paper, I think I could just walk you  
3 through.

4 On the first page, there was strike-outs that  
5 need to be removed. And on page 23-8, line 11, that  
6 should be "I" and not "L." We've added a comma on page  
7 23-8, line 16, after "Toxic Substance Control, expressly  
8 excludes service impoundments." On page 23-9, we  
9 renumbered Section 17370.3 to be 17370.2.

10 BOARD MEMBER JONES: Can I ask a question before  
11 you get off that page?

12 MS. ROSALES: Sure.

13 BOARD MEMBER JONES: On 23-8, line 4, where it  
14 says household hazardous waste is defined in Title 27,  
15 we're not talking -- the only reason I bring this up, I  
16 didn't get a chance to look up that section. We're not  
17 precluding household hazardous waste from going to these  
18 facilities based on that definition; are we? Materials  
19 that are collected at household hazardous waste events  
20 that are considered hazardous but they are part of --  
21 they are part of the household hazardous wastestream, I'm  
22 just not sure if that definition excludes it.

23 MS. ROSALES: No.

24 BOARD MEMBER JONES: Okay. So it's not the  
25 intent because that's one of our places we would take



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1 this stuff. I just want to make sure we don't

2 inadvertently exclude household hazardous in that

3 definition. Sorry.

4 MS. ROSALES: No problem.

5 And then on page 23-10, line 13, it should be

6 Section 18225(f) and not (h); and then 14 through 17,

7 that's one and the same, so we've combined those two.

8 And I have it up on the screen here so you can see how it

9 currently reads in the proposed regulations and how we've

10 combined it to read. That combined section would now

11 read, "The operator shall provide the EA with written

12 notice of intent to close a waste management unit at

13 least 30 days prior to beginning unit closure and

14 maintain a copy of the notice in the operating record."

15 And that's so the LEA5 would be aware of the status on

16 these units as they fill them to capacity and close those

17 units.

18 Then on page 23-11, line 6, we've changed to

19 "include" to "contain," and lines 12, 13 and 14 have

20 been -- it would now be D, E and F instead of E, F and G.

21 That's it for the changes.

22 CHAIRMAN EATON: Any questions of staff before

23 we get to the public comment?

24 BOARD MEMBER ROBERTI: I would like to ask

25 Counsel a question, and that is if a captive insurance

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1 company went under due to an accident or mishap at a  
2 toxic facility, what then? Where does recovery then take  
3 place? You now have no insurance company. Where would  
4 an injured member of the public go?

5 MS. TOBIAS: You're asking under DTSC's regs or  
6 how these regs stand?

7 BOARD MEMBER ROBERTI: Both. Both.

8 MS. TOBIAS: Maybe I can shorten it down. Are  
9 you asking if a company with captive insurance is not  
10 existing anymore, where do you go on the financial  
11 assurances?

12 BOARD MEMBER ROBERTI: Right.

13 MS. TOBIAS: Not being a financial assurances  
14 expert, I would say from a legal standpoint what we would  
15 be doing is pursuing the company. What you want with  
16 financial assurance is to have a ready source, one to be  
17 able to turn to automatically and have that mechanism set  
18 aside so that you're not having to chase down a company  
19 and try to get that money back from it. So you'd be, I  
20 assume, one of the creditors if they were in bankruptcy  
21 or dissolution or whatever.

22 The whole idea of financial assurance is not to  
23 worry about where the company is. That would be my  
24 answer from a legal standpoint.

25 BOARD MEMBER ROBERTI: If the company failed

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1 along with this captive insurer, who would be liable?

2 Who would have to supply the financial assurance?

3 MS. TOBIAS: If the company with captive

4 insurance failed?

5 BOARD MEMBER ROBERTI: Yes.

6 MS. TOBIAS: You mean a subsidiary?

7 BOARD MEMBER ROBERTI: Subsidiary.

8 MS. TOBIAS: We go back to the parent.

9 BOARD MEMBER ROBERTI: I hate to name names.

10 speculate that publicly that would be quite unfair, but

11 assuming the parent now fails.

12 MS. TOBIAS: As I say, if it's a bankruptcy,

13 then we'll be a creditor. And I don't know -- I have to

14 say I don't know in a bankruptcy where we would stand as

15 far as where we rank in the creditors as far as --

16 BOARD MEMBER ROBERTI: "We,11 that's the state of

17 California?

18 MS. TOBIAS: The state of California. So it

19 really depends on how it occurs. What you're doing is

20 pursuing any money that was left in terms of trying to

21 close those facilities. And again not to be too

22 repetitive, but that's precisely why we have financial

23 assurances for all these types of facilities is so that

24 we are not chasing down parents, related companies, et

25 cetera, and standing in line with the rest of the

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1 so-called creditors.

2 MS. NAUMAN: Mr. Chairman, just really quickly

3 one other issue that I think you're probably going to

4 hear about and maybe I can just take care of it now.

5 We've had some question raised about -- one of

6 the issues that has been raised by the stakeholders is

7 whether or not the emergency regulations have to go into

8 effect immediately or whether there can be some

9 transition period, and we have had some further

10 discussions with the Office of Administrative Law and it

11 is our understanding that they will entertain a

12 regulation package that will have a delayed effective

13 date. So we will be working with the stakeholders and

14 the Office of Administrative Law.

15 At this point we would suggest something like 60

16 days to allow the effected operators to work with their

17 LEAs to pull together the registration permit package and

18 get that in place. So if you hear something more about

19 the transition, that's what it is.

20 CHAIRMAN EATON: Hold it right there. The court

21 reporter needs to change the paper.

22 (Brief recess taken)

23 MS. NAUMAN: And that concludes my presentation.

24 (Laughter)

25 CHAIRMAN EATON: Exactly where we want it to be.

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1 Mr. Gordon Hart. Just for purposes of the  
2 public, two support positions, Mr. Hart and Mr. Edgar.  
3 have two speakers who are speaking in opposition, and  
4 then there's one who's on defense or has failed to put  
5 down what he or she's position is. So I'll take that  
6 individual last, who most of you always know likes to be  
7 last.

8 MR. HART: Mr. Chairman and Members, Gordon Hart  
9 on behalf of Safety-Kleen.

10 It's been about a year since this issue first  
11 arose for our company as a result of a surprising cease  
12 and desist order issued by the County, and we would like  
13 to thank the Members of the Board, the staff and the  
14 County for their patience and diligence in working  
15 through the issues.

16 For the record we do need to state that it is  
17 still Safety-Kleen's position that the statute does not  
18 require a permit. We've submitted lengthy written  
19 documents to that effect in the context of the AB 59  
20 appeal. Nevertheless, we agreed with the County to ask  
21 this Board to suspend that appeal proceeding. This Board  
22 graciously granted that joint request by the County and  
23 Safety-Kleen as the Board developed registration permit  
24 regulations, and basically I think, Mr. Chairman, you  
25 stated it well, and that was if both sides were not sure

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1 what was going to happen, and if this Board could develop  
2 registration permit regulations that recognized that the  
3 Department of Toxics did indeed regulate these facilities  
4 in a manner that protected health and safety as  
5 protectively, and I would say more protectively than  
6 would the operation of this Board's regulations in the  
7 full permit, if that fundamental premise was recognized,  
8 we did not believe it made sense for the Board or the  
9 County or Safety-Kleen to proceed with the AD 59 appeal.  
10 We believe these regulations meet that test.  
11 Staff has done a very good job overall with these  
12 regulations, that the fundamental premise that the  
13 Department of Toxics' regulations are adequate for these  
14 facilities.  
15 The only thing that is added by these  
16 regulations really are two things. One is notice to the  
17 enforcement agency and to the Board about what's  
18 happening with this nonhazardous waste at these  
19 facilities. We believe that it's very appropriate and  
20 there are sound policy reasons to have that notice. And  
21 the second is those attributes of a permit that by  
22 statute have to occur, for example, the monthly  
23 inspections. I think monthly inspections may be a bit  
24 much, but they're required by the permit. We never mind  
25 when agencies inspect and so we don't object to them.

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1 We do have some remaining concerns that we very  
2 much would like to see addressed as these regulations go  
3 forward in their final form. If the Board was so  
4 inclined to want to address them today, we would applaud  
5 that, but at a minimum we believe that they should be  
6 addressed as the regulations go forward in final form.  
7 Principally they relate to the definition of  
8 nonputrescible -- nonhazardous, nonputrescible industrial  
9 solid waste. That is found on page 23-7 of your packet.  
10 It is Subdivision H. Numbers one and number two we  
11 believe are all that is necessary to define the universe,  
12 that the waste be nonputrescible and that they not be  
13 liquid. We believe that that fundamentally means this is  
14 not a regular municipal solid wastestream. Beyond that,  
15 we think that it's an unnecessary invitation to arguments  
16 and disputes over whether or not certain particular  
17 wastes can or can't be taken.  
18 We must acknowledge that three and four, in  
19 particular the derivation of content requirements, look  
20 very familiar because they largely, I think, come from  
21 the description that we gave to this Board in our various  
22 previous presentations, oral and written, about the type  
23 of stuff that our facilities take, nonhazardous waste.  
24 It's a pretty good description, if it's just that, if  
25 it's just a description of what is this vast majority of

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1 nonhazardous waste that you take.  
2 Well, pretty much it's industrial waste or it's  
3 cleanup or releases of hazardous materials. That's the  
4 derivation, the content. Pretty much the vast majority  
5 of it does indeed contain one or more hazardous  
6 constituents. That's a good descriptor. You're going to  
7 describe certainly in the 90s, maybe in the 99 percent,  
8 of the waste with that descriptor.  
9 The problem is when it becomes prescriptive,  
10 when it becomes a rule, and all of a sudden we are  
11 violating the rules and subject to another cease and  
12 desist order because we don't have a full permit because  
13 something that we take may not fit exactly those rules,  
14 then we get concerned. An example, it has to be  
15 industrial waste or cleanup waste. Recently, one of our  
16 facilities has been getting telephone poles that have  
17 been treated with chemicals, not hazardous waste.  
18 Telephone company wants to -- has made the choice,  
19 business choice, to dispose of them in a more protective  
20 environment. We're not sure it's industrial. We don't  
21 think it's a cleanup of a release of hazardous materials.  
22 Construction debris is a reasonably common  
23 component of the wastestream. We're not sure that it's  
24 industrial, if it's construction debris of a  
25 non-industrial property. We're not certain that it would



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1 be called cleanup of hazardous materials. I would  
2 probably argue that it was but I would not want to have  
3 to get into the argument. We think that as long as the  
4 waste is nonputrescible, as long as it is not liquid,  
5 that the fundamental premise of these regulations, which  
6 is the Department of Toxics' more stringent standards  
7 apply, should be sufficient.  
8 So that's one where if this Board saw fit to  
9 delete three, four and five from the definition of  
10 nonputrescible today, we would applaud it but we would  
11 not object to the regulations going forward without that  
12 as long as there's a good faith effort to change it in  
13 the final regs.  
14 Last, the last concern about the current  
15 language has to do with the codisposal plan. And we  
16 don't necessarily object to the language that's in here,  
17 and it's changed from previous drafts and we appreciate  
18 that, we just really for the record want to indicate that  
19 it is our understanding this codisposal plan is  
20 essentially a notice, a detailed notice, and that it is  
21 not a full-blown operating plan.  
22 You have to understand. The hazardous waste  
23 facility operators, when they see certain words they're  
24 used to the way the Department of Toxics interprets them.  
25 And the Department of Toxics would interpret a codisposal

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1 plan as probably something that would be a binders's law,  
2 and that would have all sorts of charts and graphs. It  
3 is our understanding that that is not what is meant by  
4 this and I think the language does support that, that it  
5 is basically a notice of the basic operating methods and  
6 schematics of the facility. With that understanding, we  
7 do not object to the codisposal plan and we understand  
8 it.

9 Finally the transition period, I was a little  
10 unclear. There was a discussion of a transition period  
11 and talking about a transition period. I do think it is  
12 important that a transition period be in the regulations  
13 that are adopted today, and I gather that was the intent  
14 but it was a little unclear to me. We think 90 days  
15 would be appropriate to get the information together, to  
16 do the codisposal plan and to get the engineer to certify  
17 that our waste does not cause methane, but certainly we  
18 would want 60 days.

19 At that, Mr. Chairman, we would indicate we  
20 would support the path of these regulations today.

21 CHAIRMAN EATON: Any questions of Mr. Hart?

22 Mr. Evan Edgar.

23 MR. EDGAR: Chairman and Board Members, Evan  
24 Edgar, Edgar and Associates on behalf of the California  
25 Refuse Removal Council. I represent 50 MRF facilities

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1 that have C&D and take it to soil remediation facilities.  
2 I'm here today to support the regulations because we can  
3 live with them in order to bring these facilities into  
4 the system today.  
5 I would like to talk about two different items  
6 today. One is the tiering and number two is the Disposal  
7 Reporting System. I'm going to remain silent about  
8 financial assurances.  
9 Number one is the tiers. In my January 2000  
10 testimony, I talked about the need to have some level of  
11 tiering, at the minimum the registration tier was the  
12 minimum criteria. Over time as rulemaking progress goes  
13 forward, I would like to have the opportunity to explore  
14 the feasibility of doing a full permit. There could be  
15 some threshold intervals, 100, 200, 300 tons a day that  
16 could trigger a full permit. So as we go through the  
17 rulemaking process, I'd like to talk about tiers and the  
18 nature of a full permit.  
19 Number two issue is about the definition. The  
20 definitions are so key because today you hear about  
21 non-MSW, nonputrescible and nonhazardous. What we didn't  
22 hear about today is non-designated. We have a whole new  
23 concept that's being talked about, Class II waste.  
24 Nobody really knows what it is. There's no such thing as  
25 a Class II waste. We have Class II landfills, Class I

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1 landfills and Class III landfills, but the big deal is  
2 that designated waste that may or may not be able to be  
3 recycled should go to Class II landfills or even Class I  
4 landfills.  
5 What I'm talking about and why I'm here today is  
6 C&D waste. Gordon Hart talked about taking  
7 non-designated, nonhazardous construction and demolition  
8 waste. I believing that waste could be recycled and can  
9 be recycled. I represent a whole slough of MRF  
10 facilities and C&D operations who take C&D and  
11 contaminated soils and recycle them.  
12 Should this wastestream be going to a Class I  
13 facility? I firmly believe it should be part of the  
14 Disposal Reporting System. Right now the Disposal  
15 Reporting System reports on a quarterly basis by waste  
16 type. I believe that the reason I'm supporting this and  
17 could live with the emergency regulations because I would  
18 like to see this wastestream defined today because people  
19 don't know how much is going where. It's undefined.  
20 You couldn't find it through different types of  
21 reports. It's not consistent. It's not rolled up to the  
22 statewide format. But by putting these people into the  
23 system under the Disposal Reporting System, we could  
24 determine how much non-designated, nonhazardous waste  
25 that could be recycled -- going to the Class I facilities

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1 that could be recycled.

2 And I believe because of the equity issues that  
3 these facilities aren't paying the fee, they don't have a  
4 permit, they have different operating standards and  
5 that's why I'm supporting the regulations today and look  
6 forward to being part of the rulemaking in order to be  
7 sure that the tier issues be addressed and that we have  
8 the right to recycle this type of wastestream instead of  
9 it going to a Class I facility.

10 Thank you for your consideration.

11 CHAIRMAN EATON: Thank you. Mr. Mike Mohajer in  
12 opposition. If for any reason you marked incorrectly  
13 your position, let me know for the record.

14 MR. MOHAJER: Good afternoon, Mr. Chair, Members  
15 of the Board. My name is Mike Mohajer and I'm  
16 representing Los Angeles County Department of Public  
17 Works.

18 My issue is the fact that we are not a operator  
19 of a Class I, Class II, Class III or unclassified  
20 landfills. I'm before to you discuss what impact  
21 adduction of these emergency regulations would have on  
22 the municipality throughout the state of California, and  
23 that is one issue that is completely been left out of the  
24 staff report.

25 As we are going -- as Evan mentioned, gone and

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1 put in this three facilities under the registration tier,  
2 needless to say they have to comply with that disposal  
3 requirement and that disposal requirement would fall  
4 under the AB 939 waste diversion and the 50 percent  
5 reductions.

6 If you will, back in 1989 when AB 939 was  
7 enacted, at that time very specifically the definition of  
8 the law at that time, they defined solid waste. And I'm  
9 referring back to the old section of 46027 of the Public  
10 Resources Code which says a solid waste landfill means a  
11 disposal facility that accepts solid waste and which  
12 meets the requirement of Class III landfills pursuant to  
13 Sections 2533 and 2541 of the type at that time. So the  
14 issue was not Class I or a Class II landfills as we're  
15 discussing Class I landfill today.

16 And also if you refer to the staff report for  
17 the Item 54, the ash diversion issue, you will see  
18 consistently the staff has reported to the waste normally  
19 disposed back in 1990 when the legislation went into  
20 effect, and really the intent of the legislation at that  
21 time was not to include some of the waste that I frankly  
22 had a hard time myself to understand what exactly it  
23 means based on these definitions.

24 And I'll read one example. I don't have the  
25 revised staff report that has all the page numbers. I

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1 pulled this one off the internet. One section of it, the  
2 section that has the definition under the section of  
3 17368(h) (4), at least my copy says, solid waste contains  
4 waste presumed to be hazardous as specified by DTSC in  
5 Title 22, California Code of Regulations, Chapter 11  
6 Appendix X(b), what have been demonstrated not to be  
7 hazardous pursuant to the procedures set forth in Title  
8 22. One section of Title 22 presumed to be hazardous,  
9 and in the other section of Title 22 it says it is not  
10 hazardous. So look at all the confusion that is being --  
11 this definition is creating for the municipalities.  
12 Again, we are not the facility operator to make  
13 all this designations. And so I would strongly recommend  
14 that should this regulation go through or should the  
15 regular regulation go through, you would exclude Class I  
16 and Class II from counting toward the waste diversion  
17 assuming we have the revised definitions. So I fully  
18 agree with what Evan says, that certain materials that go  
19 to the Class I can be recycled. Absolutely, but certain  
20 types of hazardous waste, that definition is just a  
21 wishy-washy definition that goes through that should be  
22 excluded.  
23 And that's basically what I have for the time  
24 being and I -- one other item that I would like to  
25 mention that was brought in this morning in reference to

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1 the county siting element and the issue of having the  
2 County -- having the cities involved with the siting  
3 element and the issue of the permit and the concurrence,  
4 I would hope that the counties would be invited to that  
5 July meeting too. The siting elements are prepared by  
6 the counties and not by the cities because the cities are  
7 not required to prepare the siting. It's very important  
8 the counties be invited to that workshop.  
9 Thank you very much and I'll be -- anyhow --  
10 (Interruption in the proceedings)

11 CHAIRMAN EATON: No, Mike. It was just a matter  
12 of time.

13 MR. MOHAJER: That's all I have to say.

14 CHAIRMAN EATON: I think Mr. Jones was just  
15 using purely by example. He can speak for himself.  
16 We've had all these individuals on the list and it will  
17 not just be cities and counties. It will be all of the  
18 others.

19 MR. MOHAJER: I am absolutely in full support of  
20 what you mentioned. I know Steve didn't mean to exclude  
21 that.

22 CHAIRMAN EATON: Mr. Jones.

23 BOARD MEMBER JONES: I mean I want that whole  
24 group. I tried to abbreviate this thing.  
25 I'm curious. When you say not count Class I and



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1 Class II waste because of promulgating these regs.

2 MR. MOHAJER: No. I said the issue of the Class

3 I and Class II landfills. I didn't say Class I- and

4 Class 11-type waste.

S BOARD MEMBER JONES: Right. But I hope that you

6 don't think because we're going to do this, we're going

7 to exclude Class us from the diversion requirements.

8 MR. MOHAJER: I'm not addressing that issue

9 today.

10 BOARD MEMBER JONES: You said I strongly want to

11 urge you to Class I and Class II and I didn't want to --

12 MR. MOHAJER: Landfill facilities.

13 BOARD MEMBER JONES: Because this material that

14 we're talking about, and I know this wastestream has

15 grown. That's what the problem is. But for 20 years, 25

16 years, there has always been some material that went in

17 that was this type of material that wasn't hazardous,

18 and all we're trying to do is get that under the

19 umbrella.

20 I worry, though, that -- I like the way these

21 things are set up, but if we start growing the

22 wastestream to talk about C&D and talk about all these

23 other things, then while these will always be hazardous

24 waste facilities, at some time, some point depending upon

25 the wastestream that's coming in, they are going to need

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1 a full solid waste facility permit, pure and simple. If  
2 we keep it defined to what people are asking for, then it  
3 makes sense. When we start expanding that wastestream to  
4 take everything that the municipal solid wastestream  
5 could take -- because I think they can co-exist on the  
6 same footprint without any scientific problem or  
7 environmental problem, but I think at that point is when  
8 we've got to say we're past the line. Now you need a  
9 full solid waste facility permit.

10 MR. MOHAJER: I want to make sure the staff  
11 report and regulation also consider the impact on the  
12 municipality. And as far as that, I agree with Gordon,  
13 what you mentioned to limiting the - - deleting item three  
14 and four. That makes it a more general -- so confusing.  
15 What is not hazardous in this section but it is hazardous  
16 in the other section, and again, we are not a landfill  
17 operator to understand all that stuff.

18 CHAIRMAN EATON: All right. Thank you very  
19 much, Mr. Mohajer.  
20 Gerald Quick.

21 MR. QUICK: Chairman Eaton and Members of the  
22 Board, my name is Gerald Quick with the Local Enforcement  
23 Agency for Imperial County.  
24 I want to thank you for inviting us to this  
25 beautiful city. It's got to be at least ten degrees

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1 cooler than where we live.

2 (Laughter)

3 MR. QUICK: Unfortunately, our flight leaves in

4 less than an hour and I think I'll get to stay here

5 another night.

6 This all began over a sewage sludge incident,

7 and the Class I facility operator appealed our decision

8 as if we dug it up out from under a floormat somewhere,

9 but our board felt that the state statute was rather

10 clear and we refused to convene the hearing panel and, of

11 course, it came forth to you. And rightfully so.

12 We started out with what we thought was an

13 enforcement action and we are now discussing temporary

14 emergency regulations. We think that's probably

15 commendable and the right way to go.

16 We felt in our earlier discussions with

17 Safety-Kleen at their facility, along with your state

18 staff, that we were trying to accommodate them with what

19 they were doing at that time, which was about 25 percent

20 nonhazardous waste, and we're at the point where there's

21 actually no cap on it. This is -- attorney Gordon Hart

22 said he didn't even like your definition. It should be

23 more fully expanded to take almost anything.

24 We looked at tiers as a way to move up in the

25 category of solid waste facility permits, but if there's

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1 no restriction of the type of waste they're going to take  
2 in and no cap on it, I don't know how we'll ever move out  
3 of the registration tier.  
4 I want you people to understand clearly that  
5 once the nonhazardous waste is tipped into a Class I  
6 facility which contains obviously hazardous waste, it is  
7 all hazardous waste. It is no longer a solid waste. I  
8 feel my job would be to count the nonhazardous waste  
9 manifest coming through to see that we know what kind of  
10 tonnage we're talking about. If I had my way about it, I  
11 would operate the scales. But we can't continue to say  
12 that once it's in there, we're arguing over how much  
13 solid waste it is. It's no longer solid waste. It's all  
14 hazardous waste. We shouldn't have lost sight of that.  
15 I'm not so sure that we're resolving an  
16 enforcement action that we took with Safety-Kleen when  
17 regulations appeared that they may give them anything  
18 that is not readily putrescible, regardless, and there  
19 will be no waste going to that facility that's ever going  
20 to be recycled when it's a hazardous waste.  
21 Otherwise, I enjoy working with staff. I think  
22 you came up with some pretty good regulations on a  
23 temporary basis, but we will be looking very closely in  
24 the promulgation of the permanent regulations.  
25 I'll be happy to answer any questions that you

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1 may have.

2 CHAIRMAN EATON: Any questions of Mr. Quick?

3 Mr. Jones.

4 BOARD MEMBER JONES: The tonnage limit issues  
5 that you're bringing up, Mr. Quick, would you expect that  
6 they got it taken care of it in the same rulemaking  
7 package that definitions got discussed in?

8 MR. QUICK: Would you restate that, sir?

9 BOARD MEMBER JONES: The issues that Mr. Hart  
10 brought up about the definitions that he was hoping that  
11 could be clarified through the rulemaking package and  
12 that process, are you expecting that the tonnage issue  
13 will also be an open issue to talk about triggers or  
14 whatever in the final rulemaking package after we get out  
15 of this emergency regular situation?

16 MR. QUICK: I would certainly concur with that.

17 BOARD MEMBER JONES: That would seem reasonable.

18 CHAIRMAN EATON: The last public speaker is  
19 Chuck White, for those of you who may not have guessed.

20 MR. WHITE: Thank you, Mr. Chairman and Members  
21 of the Board. Chuck White with Waste Management. Look  
22 forward to being last.

23 I -- we don't really support or oppose the  
24 regulations. We basically are willing to go along with  
25 the regulations. We basically operate our Kettleman

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1 Hills hills facility in Kings County for years and taken  
2 small amounts of these waste in, typically less than ten  
3 percent. Until this issue came up, we understood that  
4 the 20-year-old memorandum of understanding between your  
5 predecessor agency and the other agencies that was put  
6 into effect after the passage of the current statutes in  
7 effect was controlling in this area.

8 However, we would support and go along with  
9 regulations requiring this registration permit. I want  
10 to commend your staff. They have worked very hard with  
11 us to come up with language that is workable and we think  
12 they've done a very good job in presenting this package  
13 to you today.

14 There are a few issues that I would like to  
15 mention, some of which have been briefly mentioned before  
16 and I would like to mention them again. Perhaps starting  
17 with the easiest one, the one issue that hasn't been  
18 brought up, and that is the issue of liquids for dust  
19 control.

20 The proposed regulations would prohibit liquid  
21 waste from being disposed of in a Class I facility.  
22 We're required to use liquids for dust control within  
23 that Class I facility. Typically we bring water from  
24 off-site onto the facility. Occasionally we will use  
25 waste waters to do that, nonhazardous waste waters for

1           purposes of dust control. The way we read the  
2           regulations this would not be prohibited because dust  
3           control is not a disposal, even though it is actually  
4           going on within the Class I unit pursuant to the  
5           requirements of other agencies to control the dust,  
6           mainly the DTSC and the Air Pollution Control District.  
7           We did want to get that one issue clarified, if at all  
8           possible, that this is an acceptable process to bring  
9           these nonhazardous liquids solely for the purposes of  
10          dust control.

11          The other second issue is the issue of the transition  
12          period. Similar to the way Gordon Hart characterized it,  
13          we believe that there is a need for transition. If the  
14          Board goes forward and adopts these regulations, that  
15          would create a requirement for you to have a registration  
16          permit yet there's a period of time necessary to put  
17          together the plan of operation, get the necessary  
18          certification that these regulations would require first  
19          time, and then submit the registration package with a 30-  
20          day period before you actually get your registration  
21          permit.

22          We've never done this before. We don't know how long it  
23          would take. We would think a 90-day transition period  
24          would be most appropriate to allow us to be able to  
25          prepare this plan for the the first time. It's

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1 unclear exactly how that transition period would work.  
2 One suggestion that we had would be on the  
3 beginning of line 24, which is on page 23-8, and just  
4 simply say where it says all hazardous waste disposed at  
5 facilities and it goes on to say you shall comply with  
6 the registration permit requirements, you just add a  
7 phrase at the beginning that says after September 1, year  
8 2000 you have to comply with the registration permit,  
9 which would give us a period of time to come into  
10 compliance with these regulations prior to them actually  
11 taking effect. We think the 90-day period would be a  
12 reasonable period to do that.  
13 The second issue, third issue rather, that I  
14 wanted to mention is this issue of financial assurance.  
15 I hoped not to have to discuss it and I figure I might as  
16 well bring it up. I recognize that Waste Management and  
17 the Board has had disagreements over the use of a captive  
18 insurance. We continue to believe that a captive  
19 insurance can be a very safe and effective mechanism for  
20 providing financial assurance at both hazardous waste and  
21 solid waste facilities.  
22 I don't want to get into a long debate, but  
23 quite frankly stock is not associated with the assets  
24 that a captive insurance -- certainly our captive  
25 insurance company, so it's not a stock issue.



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1 The problem we had with the Board last fall is  
2 we happened to coincide -- when we were coming forward  
3 for your consideration of captive insurance, that  
4 happened to coincide with the precipitous Tuesday stock  
5 decline in Waste Management, which we believe is largely  
6 on the road to being correct at this point in time. But  
7 unfortunately it seemed to cast doubt upon the  
8 credibility of the mechanism and credibility of the  
9 company and this Board did take action through your  
10 discretionary authority provided in statute to disallow  
11 these and we immediately transitioned to other insurance  
12 mechanisms, but we would like to preserve the option to  
13 continue a discussion with you on the suitability of  
14 captives for solid waste facilities and other types of  
15 facilities.

16 Simply stated, the captive insurance companies  
17 that are regulated by the state of Vermont, there has  
18 never, ever been a failure of a captive insurance company  
19 regulated by the state of Vermont to ever pay a claim.

20 That same statement cannot be said with the California  
21 Department of Insurance-regulated insurance companies or  
22 it can't be said with virtually every other financial  
23 assurance mechanism.

24 So somehow we have gotten out sync in our  
25 discuss with you on the suitability and effectiveness of

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1 captive insurance. We would like to be able to continue  
2 that discussion, not today obviously but at a later date.  
3 With respect to using a captive insurance at  
4 Kettleman Hills facility, it is fully in compliance at  
5 the present time with the Department of Toxics. They are  
6 looking at it. I would ask to you defer any action to  
7 restrict the use of captives as part of this regulation  
8 package at least until you go through the formal  
9 rulemaking process for a number of reasons, many of which  
10 were mentioned by Mr. Jones and others, but primarily the  
11 fact when you have another state agency that is  
12 regulating this area is the primary regulatory agency  
13 that allows it.  
14 Further, you have never adopted regulations that  
15 prohibit the use of captives. You've taken  
16 administrative decision under your authority to disallow  
17 it, which Waste Management immediately complied with, but  
18 you don't have any regulations for solid waste facilities  
19 that prohibit the use of captives. In fact, statute and  
20 regulations can be combined to read the Board can still  
21 approve captives. You have discretionary authority over  
22 that.  
23 In a sense, if you were to adopt a prohibition  
24 on captives in these regulations, it would be a departure  
25 from your previous action which has never been to adopt

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1 regulations to prohibit it. So we would ask that you not  
2 do it as part of this rulemaking package, this emergency  
3 rulemaking package, and further consideration of this  
4 issue through discussion with Cal/EPA, the Department of  
5 Toxics and through the formal rulemaking period, not as  
6 part of an emergency rulemaking.

7 The final issue the same one that Gordon Hart  
8 also mentioned, and that has to do with the definition of  
9 nonhazardous, nonputrescible industrial solid waste. The  
10 Kettleman Hills facility is a hazardous waste facility.  
11 It does not take municipal solid waste into its hazardous  
12 waste cell. It has an adjoining Class II cell that is  
13 permitted to take municipal solid waste, and in fact does  
14 that. The kinds of waste that go into the Class I cell  
15 are predominantly hazardous waste regulated by the  
16 Department of Toxics. And in fact, over the past ten  
17 years it's over 90 percent of the waste going into that  
18 facility that has been hazardous waste.

19 There will be occasional industrial-type of  
20 wastestreams that for whatever reason, the customer, the  
21 generator wanted to have those types of wastes managed in  
22 a Class I unit, but we could never take waste that had  
23 more than 50 percent free liquids or were putrescible;  
24 that is, they could decompose and generate gas within  
25 that Class I cell. So basically that would preclude any

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1 kind of municipal solid waste.  
2 Last year for the first time Kettleman did take  
3 more than 10 percent of a mine tailing-type of waste that  
4 was nonhazardous. Even though you were to test it, it  
5 would test out to be a hazardous waste, but it's eligible  
6 for a statutory exemption so it's not a hazardous waste.  
7 That was the kind of waste that we brought in this last  
8 year that took us for the first time over basically a  
9 ten-percent limit. So generally we're not really in the  
10 business to take in those types of nonhazardous waste,  
11 but those kinds of things come up from time to time and  
12 it fluctuates from year to year.  
13 Generally we don't think there's been a problem  
14 over the years based upon the requirements that the DTSC  
15 imposes to not have liquids in the waste and not have  
16 them be putrescible. Those are existing requirements  
17 that we abide by.  
18 We don't have any problem with your definition  
19 including those, but the other requirements that have  
20 been added on on page 23-7 and 23-8, including paragraph  
21 3 that Mr. Hart mentioned dealing with derivation,  
22 content that Mr. Hart mentioned and finally the  
23 limitations on not being able to take household waste, I  
24 think Gordon Hart said it accurately. These are meant to  
25 be descriptions of types of waste these facilities take

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1 or don't take, but not meant to be limiting regulatory  
2 controls. So we don't think they're really appropriate  
3 for a rulemaking.  
4 We think it's more appropriate that the  
5 restriction on putrescible waste and liquids is really  
6 where the focus of this definition would be, so we would  
7 ask that those paragraphs, at least for the emergency  
8 rulemaking, that's paragraphs 3, 4 and 5 on 23-7 and  
9 23-8, be dropped and then we can discuss it during the  
10 formal rulemaking period for adding them back in later if  
11 it's appropriate, but we basically don't see a reason or  
12 the rationale because for all these reasons the  
13 nonputrescible and liquid content restrictions have been  
14 more than adequate, we believe.  
15 That's the sum and substance of my comments. I  
16 would be happy to answer any questions I possibly can.  
17 have Mr. Bob Henry. He's the general manager of the  
18 Kettleman Hills facility to answer any questions you  
19 might have about this facility.

20 BOARD MEMBER PAPARIAN: A couple questions.  
21 The -- you said there was a Class II cell where  
22 most of the solid waste was going. You lost me. Some of  
23 it is going into your Class I area?  
24 MR. WHITE: We have a Class I cell, B-18s, large  
25 hazardous waste cell, and that takes generally over the

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1 years, year in, year out, 90 percent of the waste will be  
2 hazardous waste going in, although there will be  
3 occasionally types of nonhazardous waste disposed of in  
4 that facility, which is generally less than ten percent.  
5 A couple years ago, we got permitted a Class II  
6 cell for taking designated waste and municipal solid  
7 waste. That is the B-19 cell. It's near it, and it's a  
8 separate unit totally within the facility and it does  
9 take municipal solid waste, does take other types of  
10 nonhazardous solid waste. Most of the nonhazardous solid  
11 waste that comes to the facility would go to the Class II  
12 cell, but there would be occasional instances like this  
13 bevel amendment waste that I mentioned, which is mine  
14 tailing waste that acts like a hazardous waste, but it's  
15 been exempted.

16 In the case of this bevel waste, the generator  
17 did not want to put this into a Class II or III solid  
18 waste cell, although legally he could because he's  
19 worried some point in time the bevel exemption might go  
20 away. So it would be prudent on his part to put it into  
21 a Class I facility because he's thinking at some point in  
22 time through a rulemaking or regulatory change it might  
23 have to go there anyway.

24 BOARD MEMBER PAPARIAN: In a Class II cell,  
25 does -- how does the insurance work here? So you don't

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1 have captive insurance on the Class II cell?

2 MR. WHITE: We don't have captive insurance on

3 that Class II cell. We never had that captive insurance.

4 We abided by the Board's direction on that particular

5 cell, as we have on all our other solid waste facilities

6 in the state to not use that particular form of mechanism

7 once you made the decision that was not appropriate.

8 Again, we'd like to be able to come back and

9 continue a dialogue with the Board on whether or not

10 those types of mechanisms are truly effective and safe,

11 which we continue to believe they are. We would like to

12 continue to make that case.

13 BOARD MEMBER PAPARIAN: Have you looked into

14 this possibility that you somehow alluded to before of

15 expanding your non-captive insurance to that portion of

16 the waste that's going into your Class I facility that's

17 nonhazardous?

18 MR. WHITE: That's one item that has been

19 discussed. There has not been any closure on that.

20 If we do have those kind of discussions, I would

21 like to have them and propose we have them once the

22 emergency rulemaking that basically maintains the status

23 quo goes into effect and continue to have those

24 discussions on what would be the appropriate mix, if it's

25 at all possible, and we would also like to be able to

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1 continue talking to DTSC about whether captive *is*, in  
2 fact, a viable mechanism, but wouldn't that be a more  
3 appropriate discussion to have during the formal  
4 rulemaking process rather than try to hurry them through  
5 and maybe not quite get it right as part of the emergency  
6 rulemaking.

7           BOARD MEMBER PAPARIAN: Finally, do you have any  
8 understanding of what DTSC may be doing in terms of their  
9 evaluation on captive insurance?

10 MR. WHITE: I have had a meeting with the  
11 Department of Toxics. They are -- they have raised some  
12 of the same concerns that the staff of this agency, this  
13 Board have raised. We have -- we respect their --  
14 the positions they're taking. We believe to be in error  
15 in a couple of places. We believe, for example, that a  
16 captive is fully financed sufficiently to cover any  
17 possible claim that might be against it. That's what the  
18 state of Vermont looks like.

19 They can always require increases or decreases  
20 in the capitalization as the state of Vermont deems is  
21 necessary to make sure there is sufficient assets to  
22 cover any risks that are on the horizon. But remember,  
23 Waste Management has never had a claim against its  
24 financial assurance mechanism, any mechanism ever, and  
25 there's never been a failure of a Vermont-regulated



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1 captive ever to meet a claim in the 20 years that Vermont  
2 has regulated. It's a very stringent regulatory program  
3 for captives.  
4 Over a hundred Fortune 500 companies have  
5 captives regulated by the state of Vermont and 400 other  
6 companies do as well, and there's never been a failure to  
7 pay a claim ever. Like I said before, that similar  
8 statement cannot be made about any other financial  
9 assurance mechanism. It just simply can't be made.  
10 So these kinds of arguments that we've tried to  
11 make in the past somehow have not carried weight or we  
12 have not been able to make them very effectively, and we  
13 would like to be able to continue to have these dialogues  
14 with the Board, staff and other agencies that may be  
15 contemplating these actions.  
16 We would hope that you wouldn't take action for  
17 the first time in regulation to prohibit what is  
18 otherwise a perfectly legal mechanism, we believe, under  
19 California state law.

20 CHAIRMAN EATON: Any other questions for  
21 Mr. White?

22 I just have one question of staff. Is there a  
23 section in here dealing with the captive insurers?

24 MS. NAUMAN: It is not addressed with language,  
25 Mr. Chairman.

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1           CHAIRMAN EATON: So if we were to adopt these  
2 regulations, would it in any way prohibit or chill the  
3 discussion in a formal rulemaking process? Those are not  
4 contained in here; is that correct?

5 MS. NAUMAN: Absolutely not. Correct.

6           CHAIRMAN EATON: You know that they're not in  
7 here.

8 MS. NAUMAN: Mr. Chairman, if I just might try.

9           BOARD MEMBER ROBERTI: But -- so I get this  
10 clear so I know what I'm doing. But it would allow DTSC  
11 to go forward.

12 MS. NAUMAN: It would maintain the status quo.

13           BOARD MEMBER ROBERTI: Without our interference,  
14 if that's the right word.

15 MS. NAUMAN: We would continue to defer to DTSC.

16 We will continue to dialogue with them about the use of  
17 captives.

18           BOARD MEMBER ROBERTI: So we're doing something  
19 new, and that is deferring mixed waste facilities to  
20 DTSC --

21 MS. NAUMAN: And I would suggest that we --

22           BOARD MEMBER ROBERTI: -- in effect to their  
23 regulations.

24 MS. NAEJMAN: At least during the emergency  
25 period.

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1           BOARD MEMBER ROBERTI: How do we define the  
2 emergency period?

3 MS. NAUMAN: The Chairman was indicating the  
4 issue would remain open for discussion during the formal  
5 rule making process, as would I suggested the issue of  
6 the definition as well as the issue of the cap.

7           BOARD MEMBER ROBERTI: And if we were not to  
8 adopt these emergency regulations, what would happen  
9 under those circumstances?

10 MS. NAUMAN: If we did not adopt the emergency  
11 regulations, I would presume that the -- Safety-Kleen  
12 could reactivate its appeal. They could continue to  
13 operate without benefit of the permit that we believe is  
14 required by statute.

15 So as you may recall, the appeal is on stay, has  
16 been stayed while we were discussing these emergency  
17 regulations. I don't know if what they would do if we  
18 did adopt these regulations as an emergency. Our staff  
19 recommendation would be that you adopt the emergency  
20 regulations that you have before you and that you  
21 allow --

22           BOARD MEMBER ROBERTI: The emergency  
23 regulations, now I'm asking to you capsulize all these  
24 paragraphs. Are they in all areas essentially deferral  
25 to DTSC?

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1 MS. NAUMAN: Not completely in that that we  
2 would still -- the LEA will still perform monthly  
3 inspections, we would require --

4 BOARD MEMBER ROBERTI: Of the --

5 MS. NAUNAN: Of the facility.

6 BOARD MEMBER ROBERTI: Of the facility,  
7 specifically of the way the facility manages municipal  
8 solid waste.

9 MS. NAUMAN: The inspection would really focus  
10 on the record keeping that's being done by the operator  
11 so that we can track the amount of nonhazardous,  
12 nonputrescible industrial waste that's going into the  
13 facility.

14 BOARD MEMBER ROBERTI: We would be keeping our  
15 own inventory.

16 MS. NAUMAN: We would be monitoring them to  
17 ensure that they are keeping track and reporting the  
18 waste.

19 BOARD MEMBER ROBERTI: And that's for purposes  
20 of our own counting for diversion purposes.

.21 MS. NAUMAN: And for purposes of the fee.

22 BOARD MEMBER ROBERTI: For purposes of the  
23 fee.

24 MS. NAUNAN: Right. So --

25 BOARD MEMBER ROBERTI: That's something, but

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1 it's not really regulation.

2 MS. NAUMAN: Well --

3 BOARD MEMBER ROBERTI: It's getting our piece of  
4 the toll and -- which is important, and also dealing with  
5 complicated questions of diversion counting which we  
6 don't want to get into now.

7 MS. NAUMAN: So if I might try to summarize,  
8 what would be in the regulation package would be  
9 requirement to pursue and obtain the registration tiered  
10 permit. The application package would include the  
11 preparation of a plan. The application package would  
12 also include certification by a registered civil engineer  
13 with respect to methane gas, certifying they would not be  
14 generating it. They would obtain the permit, then the --  
15 they would be required to maintain the records as we've  
16 discussed, and the LEA would be required to perform a  
17 monthly inspection of those records to ensure the records  
18 are being kept.

19 That really is the essence of the package.

20 BOARD MEMBER ROBERTI: Even the methane gas  
21 strikes me as an inventory kind of thing. They're not  
22 supposed to be taking anything generating methane gas.

23 MS. NAUMAN: That's true. And we're asking them  
24 to be certifying they would not be taking anything that  
25 would.

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1           BOARD MEMBER ROBERTI: I'm not saying these  
2 aren't important considerations, but I'm trying to think  
3 in my mind whether we -- as far as our regulatory powers  
4 are concerned, we have pretty much allowed ourselves to  
5 be subsumed by DTSC and it sounds like we have. We're  
6 keeping an inventory to see to what extent that -- I  
7 don't know -- that subsuming amounts to and that's  
8 important, but we are, I will say, allowing -- we are  
9 deferring to DTSC. I don't have a major problem with  
10 that except, of course, when we're talking about the  
11 insurance issue and the inventory for diversion purposes  
12 of which I take it we're keeping track of.

13 MS. NAUMAN: We would be.

14           BOARD MEMBER ROBERTI: So --

15           BOARD MEMBER JONES: And fees.

16           BOARD MEMBER ROBERTI: And fees, but we're  
17 really not -- absolutely, but we aren't engaging in a  
18 regulatory process and there's no reason for unnecessary  
19 regulation.

20           CHAIRMAN EATON: I think I have a better deal  
21 than the mining guy.

22           BOARD MEMBER ROBERTI: I will just reiterate  
23 that I'm reluctant to, quote, captive insurance, and from  
24 I understand you can go after the captive insurer, then  
25 you go after the parent company then you go after the

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1 people who dumped in the landfill, but that's a heavy  
2 rigmarole that becomes very cumbersome, would delay  
3 recovery, if there could be recovery at all, and I know  
4 we're just talking about an emergency period but this  
5 vote is going to lead to the next vote that we have. So  
6 I'm just thinking out loud, I guess.  
7 Insurance is there in unlikely cases. That's  
8 why we have insurance, is unlikely cases, the big  
9 accident that we don't think is ever going to happen then  
10 oops, it does happen. So for my own vote, I don't want  
11 it to happen on my clock.

12 BOARD MEMBER JONES: Mr. Chairman.

13 CHAIRMAN EATON: Mr. Jones.

14 BOARD MEMBER JONES: I think we -- I think I  
15 like the idea of having this. I just want to say one  
16 thing about captive insurance, is that it was a pretty  
17 simplistic (inaudible) that if the captives -- and not by  
18 you but the explanation you got -- if the captive failed  
19 then you go after the company and hope they didn't fail.  
20 You need to put that in perspective. This is a \$12  
21 billion a year -- well, more. \$12 billion that operates  
22 a lot of landfills in the state of California which are  
23. considered assets; that if they were to go bankrupt,  
24 those assets would go up for sale. Part of the sale of  
25 that is to know that they are -- that they are licensed,

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1 that they have a permit.

2 I want to ask you if you were going to do a  
3 fire sale on all the MSW landfills that are owned by a  
4 certain company and you had to rely that the only way you  
5 were going to be able to move that asset to another party  
6 was that it be fully in compliance, do you think for a  
7 heartbeat that we would not get our money back on one of  
8 their facilities? Because we would. That is the asset  
9 that you attach to make yourself whole.

10 So if that ever happened, and believe me. I'm  
11 going out a long way, but that's the reality. I don't  
12 know how many landfills they have in the state. They  
13 don't all fail in one day.

14 BOARD MEMBER ROBERTI: It's clear, it's logical,  
15 except that when we're talking about a toxic accident,  
16 we're talking about --

17 BOARD MEMBER JONES: That DTSC has oversight of.

18 BOARD MEMBER ROBERTI: That DTSC has oversight  
19 of.

20 BOARD MEMBER JONES: Boy, that's a dumb agency,  
21 if that's the case. You know what I'm saying? It's not  
22 our agency. It is their agency. It is a hazardous waste  
23 site.

24 BOARD MEMBER ROBERTI: I think you're talking  
25 about -- I was not wanting to exhaust all potentialities.



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1 I mean I think you're talking about the potentialities.

2 It's remote, it's potential, but that's what insurance  
3 was all about. There would be no insurance companies if  
4 all they were insuring was likelihoods.

5           BOARD MEMBER JONES: Well, closure post-closure  
6 funding -- okay. Back up just a second, and we really do  
7 need to -- I know we have to move this, but closure  
8 post-closure funding, if I'm funding cash  
9 dollar-for-dollar that goes into a facility and I have a  
10 facility that has an 80-year expectancy, then I'm funding  
11 based on an 80-year total -- at 80 years I would be a  
12 hundred percent funded. If it failed in year two with my  
13 cash closure and I was forced to close, I wouldn't have  
14 the money and there wouldn't be another mechanism that  
15 anybody could go after. That's the reality of closure.  
16 So I think, though, what I would like to offer  
17 is -- and I'm throwing this out for discussion. I'm not  
18 making a motion. This resolution with an added whereas  
19 that the wordsmiths can play with, "Whereas, the  
20 California Integrated Waste Management Board will start  
21 the formal rulemaking for the permanent regulations and  
22 will include discussions on the use of captive insurance,  
23 including discussions with DTSC, tonnage limits and  
24 definitions of what is acceptable waste and  
25 non-acceptable waste as part of the formal rulemaking

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1 package."

2 BOARD MEMBER ROBERTI: Read that again.

3 BOARD MEMBER JONES: "Whereas," this is added,  
4 "Whereas, the California Integrated Waste Management  
5 Board will start the formal rulemaking process for the  
6 permanent regulations and will include discussions on the  
7 use of captive insurance, to include DTSC, tonnage limits  
8 and definitions of what is acceptable waste."

9 So that --

10 BOARD MEMBER ROBERTI: It's a little bit better  
11 from my point of view, but it's still language which  
12 leaves -- it best leaves vague and probably permits  
13 captive insurance.

14 BOARD MEMBER JONES: At least it's status quo  
15 right now.

16 CHAIRMAN EATON: Let us not forget that captive  
17 insurance, one of the criticisms of captive insurance,  
18 not to take it simple, but that same asset that the state  
19 of Vermont has also protects the assets in Texas  
20 facilities, the facilities in other states. So it's not  
21 just exclusive to \$12 billion. It covers everybody in  
22 kind of a shell game. Wherever the betting, what you're  
23 betting against is that there not be two accidents at the  
24 same time or relatively close. That's the problem with  
25 captives is that it's not just California specific.

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1 That's where our financial assurance plan is  
2 under the full permit; is it not? Not just California  
3 specific to those particular landfills.

4 BOARD MEMBER ROBERTI: Good point, Mr. Chairman.

5 BOARD MEMBER JONES: Closure post-closure  
6 policies are for the closure. They're not for -- they're  
7 not for the unexpected disaster.

8 CHAIRMAN EATON: Well --

9 BOARD MEMBER JONES: That's not what that --  
10 that's not what that fund is for.

11 CHAIRMAN EATON: If they were going to go  
12 belly-up, if the company were to go belly-up --

13 BOARD MEMBER JONES: They would -- then they  
14 would have a (inaudible).

15 CHAIRMAN EATON: So each of those states would  
16 have to then go against the asset of that company.

17 BOARD MEMBER JONES: No. No.

18 CHAIRMAN EATON: You were talking about -- it's  
19 not really relevant.

20 BOARD MEMBER JONES: It's not relevant, but  
21 that's not -- it doesn't matter.

22 CHAIRMAN EATON: Mr. Paparian.

23 BOARD MEMBER PAPARIAN: I'm very sympathetic to  
24 the issues that have been raised regarding captive  
25 insurance, but at the same time I'm concerned about going

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1 down the path of having two sets of financial assurance  
2 in the exact same facility.  
3 These are emergency regs. We're going to be  
4 moving towards the regular regulatory process. My -- I'm  
5 thinking out loud here, but my inclination is to very  
6 clearly state that we're concerned about the captive  
7 insurance issue, that we would like the staff to work  
8 with DTSC and see if there's any possibility of resolving  
9 this in a way that is comfortable for this Board; and  
10 then -- or if not, in the regular regulatory or  
11 regulation adoption process we look at how we can apply  
12 non-captive insurance to these facilities and really  
13 explore that in some depth at that point.

14 BOARD MEMBER JONES: And do that in the 120-day  
15 rulemaking or how long it takes.

16 BOARD MEMBER PAPARIAN: I'd really like to see  
17 an effort to try to get DTSC off the dime to figure out  
18 what direction they're really going to go and how they're  
19 going to handle this issue.

20 BOARD MEMBER JONES: How about if we change this  
21 thing to say permanent -- well, do the formal rulemaking  
22 regs and that we want a determination from DTSC on their  
23 treatment. Does that get you there? Probably not. It  
24 was better to have the discussion.

25 BOARD MEMBER PAPARIAN: We can't --

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1           CHAIRMAN EATON: It was just the opposite of  
2 what you were arguing a couple minutes ago.

3 (Laughter)

4           BOARD MEMBER JONES: It doesn't matter to me one  
5 way or another how that thing gets resolved. I just  
6 don't like cramming it down their throats.

7           CHAIRMAN EATON: The other issue is we could  
8 just let the formal rulemaking process go on and take up  
9 •the appeal. Solve the issues and let the formal  
10 ratemaking process go on. That's the other option and  
11 therefore preserves everything.

12          BOARD MEMBER JONES: So I think really what  
13 we're dealing with is just -- I'm assuming that they've  
14 been --

15          CHAIRMAN EATON: I'll let that one go down. I  
16 say that we don't adopt any regulations today, we  
17 instigate a formal rulemaking process at the same time we  
18 reactivate their appeal on AB 59. Second?

19          BOARD MEMBER JONES: Can I ask a question?

20          BOARD MEMBER ROBERTI: Doesn't that happen on  
21 the natural if this regs -- if these regs go down?

22          CHAIRMAN EATON: I don't think the formal  
23 rulemaking would happen, but you're right. It would be  
24 just -- if we didn't do anything, then the parties would  
25 have that option. You're right. You're correct in that.

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1 It would *just* be you could direct if you wanted to at  
2 that point, then.

3 BOARD MEMBER ROBERTI: I'm happy to second your  
4 motion. Probably we ought to see what happens to the  
5 regulations before us first, however, and then I'll be  
6 happy to second your motion.

7 MS. TOBIAS: Mr. Chair, I think with the appeal,  
8 if the Board does not act to adopt emergency regulations,  
9 then the appeal is back before the Board. Certainly the  
10 parties could -- the party that brought the appeal could  
11 drop the appeal but that would leave, then, the order in  
12 place that the County has already passed in place, a  
13 cease and desist.

14 BOARD MEMBER PAPARIAN: So that -- on that part,  
15 the cease and desist order, if that were -- tell me what  
16 that means in terms of what would happen to that  
17 facility.

18 MR. CHANDLER: Mr. Quick, you should stand up as  
19 well, but as I understand it the LEA determined in  
20 reading the state statutes that a permit from the  
21 Integrated Waste Management Board is applicable to take  
22 nonhazardous waste at this facility. They issued a cease  
23 and desist order ordering Safety-Kleen to go to the state  
24 board, this Board, and get a permit.  
25 Safety-Kleen appealed that at the local level

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1 saying we don't think you're interpreting this statute  
2 correctly, and Imperial County chose not to hear that  
3 appeal feeling it was clear on its face, did not have any  
4 ambiguity and said if you don't like our decision, go to  
5 Sacramento and appeal to the Integrated Waste Management  
6 Board.  
7 These parties got together, the LEA and  
8 Safety-Kleen, and said we won't for the time being remove  
9 our appeal to Sacramento and work on emergency  
10 regulations or some type of a regulatory scheme to see if  
11 we can work this out. And that's what we've been  
12 involved in over the last several months.  
13 What Mr. Eaton is pointing out is if we put  
14 these aside or if they aren't passed out today, that  
15 appeal is still on the table and could be taken up by  
16 this Board. Is that clear?

17           CHAIRMAN EATON: Mr. Quick, did you want to say  
18 a word?

19 MR. QUICK: Chairman Eaton and Members of the  
20 Board, this is Gerald Quick with the LEA, and with  
21 respect with Safety-Kleen, since the issuance of the  
22 cease and desist order they have not taken in any  
23 nonhazardous waste at the facility in Westmorland, and I  
24 am quite confident that if you don't pass these  
25 regulations they won't take it in until an appeal is

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1 heard. They just simply ship it to Buttonwillow like  
2 they've always done.

3 CHAIRMAN EATON: Ship it to Buttonwillow in  
4 Kern.

5 MR. CHANDLER: So the issue there is that  
6 should this Board (inaudible) issue the cease and desist  
7 order, the other LEAs that operate these facilities in  
8 Kern and Kings County for consistency purposes across the  
9 state.

10 CHAIRMAN EATON: Mr. Hart, you may have the last  
11 word before we get ready to do this. I know you get paid  
12 by the hour, but our court reporter needs a break.

13 (Laughter)

14 MR. HART: Mr. Chairman and Members, Gordon Hart  
15 on behalf of Safety-Kleen.

16 Obviously it is Safety-Kleen's preference at  
17 this time to move forward with the emergency regulations.  
18 We're put in a difficult situation here where the Board's  
19 reluctance to do so is the result of an issue that is not  
20 an issue with our company and our facility, and I suppose  
21 I am just asking you to feel our pain in that regard.

22 CHAIRMAN EATON: Speak with Ms. Nauman who  
23 raised the original issue.

24 MR. HART: The second point that I would like to  
25 make is that if this Board were to choose not to adopt



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1 these regulations at this time, I imagine that Imperial  
2 County and Safety-Kleen would immediately have  
3 discussions and determine whether or not we still want to  
4 stay our appeal or whether or not Safety-Kleen believes  
5 it should pursue the appeal.  
6 I do not believe Safety-Kleen would withdraw its  
7 appeal at this point. We will either proceed with the  
8 appeal or, frankly, go to the County and ask if they  
9 would be willing to continue while the formal regulations  
10 were adopted with the same stay and as Mr. Quick said, we  
11 have voluntarily agreed throughout this entire process,  
12 and it's been a year now. We have voluntarily agreed to  
13 refrain from taking this waste when we absolutely have  
14 the right to take it. Once we appealed, we do have the  
15 right. The cease and desist order is stayed but we  
16 voluntarily agreed to do it and I would imagine that we  
17 would agree to continue to refrain, just as Mr. Quick  
18 stated, and continue it.  
19 So I'm not certain what the County would think,  
20 but I would -- that would be probably our preference, but  
21 we do note that we're the ones affected by this and  
22 unfortunately the issue is not one that relates to us.  
23 CHAIRMAN EATON: Perhaps we should take a short  
24 ten-minute break and reflect and let the court reporter  
25 have a break. We'll be back at five to 4:00.

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1 (Recess taken)

2 CHAIRMAN EATON: Welcome back.

3 Mr. Jones, any ex parte communications?

4 BOARD MEMBER JONES: Gerald Quick, but talking  
5 about garbage disposals.

6 CHAIRMAN EATON: Residential or commercial?

7 BOARD MEMBER JONES: Both. Source reduction.

8 CHAIRMAN EATON: Ms. Moulton-Patterson.

9 BOARD MEMBER MOULTON-PATTERSON: None.

10 CHAIRMAN EATON: Senator Roberti.

11 BOARD MEMBER MEDINA: Meet-and-greet with  
12 Mr. Mark White.

13 CHAIRMAN EATON: All right. Ms. Nauman, have  
14 you got any closing remarks on the proposed motion before  
15 us?

16 MS. NAUMAN: Staff recommendation is to defer  
17 the discussions on the three policy items to the formal  
18 rulemaking process and provide a transition period for  
19 the emergency reg permit.

20 CHAIRMAN EATON: Mr. Paparian, any ex parte  
21 communications while we were out?

22 BOARD MEMBER PAPARIAN: No.

23 CHAIRMAN EATON: All right. Before we left, we  
24 should have resolved staff's recommendation and also the  
25 motion, and Senator Roberti, it was explained to you at

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1 least in terms of what I was trying to make clear. So is  
2 the second still in order?

3 BOARD MEMBER ROBERTI: Yes. That's fine. I was  
4 thinking why don't we dispose of the recommendation --

5 CHAIRMAN EATON: Okay.

6 BOARD MEMBER ROBERTI: And then if you want to  
7 take - -

8 CHAIRMAN EATON: Sure. That's fine.

9 MS. NAUMAN: Actually, Counsel is signaling.

10 MS. TOBIAS: Mr. Chair, at some point I would  
11 like to address the point that was raised by a letter  
12 that was sent to the Board on the Board's adopting  
13 emergency regs. So at the point that that's in order, if  
14 the Board is going ahead with the emergency regs, I would  
15 like to put something in the record on this issue,  
16 whenever you think it's appropriate.

17 CHAIRMAN EATON: You should do it now because if  
18 we take up the staff recommendation, which is to adopt  
19 them as emergency regs, you would have to take up the  
20 issue of emergency --

21 BOARD MEMBER ROBERTI: Let me interject. I'll  
22 second your motion.

23 CHAIRMAN EATON: All right. Okay.

24 BOARD MEMBER JONES: Would you repeat your  
25 motion?

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1           CHAIRMAN EATON: Sure. My motion would simply  
2 be that we do not adopt the emergency regs today, and  
3 then through the natural course of things but at the same  
4 time as it relates to the appeal, but then to direct  
5 staff to begin the formal process of developing a formal  
6 rulemaking process as it relates to this package and  
7 bring it back within 45 days.

8 Ms. Moulton-Patterson.

9           BOARD MEMBER MOULTON-PATTERSON: I would like to  
10 make a comment before we vote. I'll be voting no because  
11 I support the staff's position on this, on the emergency  
12 regs, and I just -- I am concerned about the captive  
13 insurance. I think that's an issue, but I am supportive  
14 of adopting the emergency rules today.  
15 Thank you.

16           CHAIRMAN EATON: All right.  
17 Madam Secretary, please call the roll.

18           BOARD SECRETARY: Board Members Jones.

19           BOARD MEMBER JONES: No.

20           BOARD SECRETARY: Medina.

21           BOARD MEMBER MEDINA: No.

22           BOARD SECRETARY: Moulton-Patterson.

23           BOARD MEMBER MOULTON-PATTERSON: No.

24           BOARD SECRETARY: Paparian.

25           BOARD MEMBER PAPARIAN: Abstain.

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1 BOARD SECRETARY: Roberti.

2 BOARD MEMBER ROBERTI: Aye.

3 BOARD SECRETARY: Chairman Eaton.

4 CHAIRMAN EATON: Aye.

5 Motion fails.

6 BOARD MEMBER JONES: Mr. Chairman.

7 CHAIRMAN EATON: Mr. Jones.

8 BOARD MEMBER JONES: I would like to move

9 adoption of Resolution 2000-206 to include a whereas that

10 the CIWMB will start the formal rulemaking for the

11 permanent regs and will include discussions on the

12 appropriate use of captive insurance, to include DTSC in

13 those discussions, tonnage limits, and definitions of

14 what is acceptable.

15 BOARD MEMBER MOULTON-PATTERSON: I'll second it.

16 CHAIRMAN EATON: All right. But before we

17 begin, could I read into the record, since she asked, it

18 would be the motion to include emergency regulations and

19 if they should be adopted. You wanted to say something

20 for the record.

21 MS. TOBIAS: Thank you, Mr. Chair. Section

22 11346.1b in the Administrative Procedures Act does allow

23 state agency to promulgate emergency regulations. We

24 rely on the leading case which is Shenly Affiliated Brans

25 Corp (phonetic) versus Kirby, a 1971 case in which the

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1 court basically said what constitutes emergency as  
2 primarily a matter for the agency's discretion.  
3 Under Shenly, a court is not necessarily bound  
4 by an agency's determination of the existence of that  
5 emergency, but the court must accord substantial  
6 deference to this agency finding. One of the clear  
7 reasons culled out in the court cases on this is that a  
8 lack of time to promulgate regulations in the normal way,  
9 which I think is the situation here, does justify the  
10 agency proceeding with emergency regulations.  
11 So to summarize, it is within the discretion of  
12 the agency we do have findings in your resolution that  
13 discuss why you think there is the need for acting  
14 expeditiously on this particular issue and there is a  
15 letter of instruction on that issue.

16 CHAIRMAN EATON: We have a motion before us.  
17 Madam Secretary, please call the roll.

18 BOARD SECRETARY: Board Members Jones.

19 BOARD MEMBER JONES: Aye.

20 BOARD SECRETARY: Medina.

21 BOARD MEMBER MEDINA: Aye.

22 BOARD SECRETARY: Moulton-Patterson.

23 BOARD MEMBER MOULTON-PATTERSON: Aye.

24 BOARD SECRETARY: Paparian.

25 BOARD MEMBER PAPARIAN: Aye.

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1 BOARD SECRETARY: Roberti.

2 BOARD MEMBER ROBERTI: No.

3 BOARD SECRETARY: Chairman Eaton.

4 CHAIRMAN EATON: No. Okay. Motion passes.

5 Next item, Number 24.

6 For the record, that was the resolution as

7 amended; correct, Mr. Jones?

8 BOARD MEMBER JONES: Yes.

9 CHAIRMAN EATON: I'm sorry. We didn't state  
10 that.

11 Let's go, Mr. Leary.

12 MR. LEARY: Yes, sir. Good afternoon,

13 Mr. Chairman and Members of the Board. Mark Leary,

14 Deputy Director of the Special Waste Division.

15 The Special Waste portion of today's agenda has

16 nothing to do with emergency regulations or permits. The

17 only captive involved was when staff held me captive

18 trying to explain the flow of money with tire and oil

19 monies.

20 But today's agenda is all about money and I'd

21 like -- because it was all about money, I would like to

22 extend my appreciation to the work of the admin staff and

23 Ms. Terry Jordan in their helping us get these agenda

24 items prepared.

25 Without further adue, I will move to agenda Item

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1 24 and the subsequent tire items that will presented by  
2 Ms. Martha Gildart.

3 MS. GILDART: Good afternoon. Martha Gildart  
4 with the Special Waste Division. The first item we'll be  
5 taking up is Item 24, consideration of approval of fiscal  
6 year 99-2000 local public agency waste tire playground  
7 cover and track surfacing grant awards.

8 You may remember that in September of 1999, the  
9 Board allocated \$450,000 to be made available for grants  
10 to local governments for playgrounds and track surfacing.  
11 The criteria were also adopted in September. We mailed  
12 notices of funds available to over 3,000 interested  
13 parties and received 67 applications requesting a total  
14 of \$1.5 million for playground grants.

15 Staff convened panels to review the applications  
16 and we have on list A and B, which are attachments to  
17 your Item 24, the applications which passed the review  
18 and for which funds are available. That is list A; and  
19 then applications which passed the review but for which  
20 there are no funds currently available.

21 We are asking for the Board to approve that  
22 ranking of applications so that staff can start preparing  
23 grant agreements for all those on list A. If additional  
24 funds are made available, then we will start working our  
25 way down list B as they are available.



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1 Any questions?

2 CHAIRMAN EATON: Questions? Okay.

3 BOARD MEMBER MOULTON-PATTERSON: Mr. Chairman,  
4 I'd like to move -- I'd like to move approval of  
5 Resolution 2000-244 for local public agency waste tire  
6 playground cover and track surfacing grant awards.

7 BOARD MEMBER MEDINA: Second.

8 CHAIRMAN EATON: All right.

9 Ms. Moulton-Patterson moves and Mr. Medina seconds we  
10 adopt Resolution 2000-244.

11 Madam Secretary, please call the roll.

12 BOARD SECRETARY: Board Members Jones.

13 BOARD MEMBER JONES: Aye.

14 BOARD SECRETARY: Medina.

15 BOARD MEMBER MEDINA: Aye.

16 BOARD SECRETARY: Moulton-Patterson.

17 BOARD MEMBER MOULTON-PATTERSON: Aye.

18 BOARD SECRETARY: Paparian.

19 BOARD MEMBER PAPARIAN: Aye.

20 BOARD SECRETARY: Roberti.

21 BOARD MEMBER ROBERTI: Aye.

22 BOARD SECRETARY: Chairman Eaton.

23 CHAIRMAN EATON: Aye.

24 Thank you. Item Number 25.

25 MS. GILDART: Item 25 is consideration of

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1 approval of fiscal year 99-2000 local government waste  
2 tire cleanup matching grant awards.  
3 This is our fifth cycle of providing grants to  
4 local governments to clean up piles of tires. If you  
5 remember, in September the Board allocated up to a  
6 million dollars, but this was in conjunction with our  
7 cleanup contract with \$500,000 available to go either  
8 way, depending upon the number requested.  
9 In February we came to the Board and awarded  
10 three grants for a total of \$100,000. Today we're asking  
11 for approval to award an additional three grants for  
12 \$112,814.  
13 The three applicants are listed on attachment 2.  
14 There's Sierra County requesting \$16,000. The Soboba  
15 Band of Mission Indians in Riverside County for \$75,000  
16 and Monterey County requesting \$22,000.  
17 If you have questions on any of the specific  
18 projects, I can answer them. Otherwise, we are  
19 requesting approval of those three.

20 CHAIRMAN EATON: Questions of staff?

21 BOARD MEMBER MEDINA: Mr. Chair, I'd like to  
22 move this item.

23 CHAIRMAN EATON: All right.

24 BOARD MEMBER MEDINA: I'd like to move  
25 Resolution 2000-252 with the appropriate findings to

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1 indicate that the Board has found the proposed permit to  
2 be consistent with the California Environmental Quality  
3 Act, in conformance with the intent of the County  
4 Integrated Waste Management Plan, meets all permit  
5 requirements and is consistent with state minimum  
6 standards and, therefore, concurs in the proposed permit.

7 BOARD MEMBER JONES: I'll second.

8 MS. TOBIAS: Mr. Chair, I've been informed by  
9 staff that we need to indicate that on one of these  
10 grants, and it's the one for Soboba Indian Tribe grant,  
11 that that needs to be a conditional approval. We've not  
12 received their resolution, so the Board would be  
13 approving that subject to the submission of a resolution  
14 prior to them being awarded that grant.

15 BOARD MEMBER MEDINA: With that condition.

16 CHAIRMAN EATON: All right. So Mr. Medina moves  
17 and Mr. Jones seconds that we adopt Resolution 2000-252  
18 as amended so that the grant to the Soboba Band of  
19 Indians be conditional upon receipt of the resolution.  
20 Is that sufficient?

21 MS. TOBIAS: Thank you.

22 CHAIRMAN EATON: Madam Secretary, please call  
23 the roll.

24 BOARD SECRETARY: Board Members Jones.

25 BOARD MEMBER JONES: Aye.

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1 BOARD SECRETARY: Medina.

2 BOARD MEMBER MEDINA: Aye.

3 BOARD SECRETARY: Moulton-Patterson.

4 BOARD MEMBER MOULTON-PATTERSON: Aye.

5 BOARD SECRETARY: Paparian.

6 BOARD MEMBER PAPARIAN: Aye.

7 BOARD SECRETARY: Roberti.

8 BOARD MEMBER ROBERTI: Aye.

9 BOARD SECRETARY: Chairman Eaton.

10 CHAIRMAN EATON: Aye.

11 And I want to apologize. Rosemary Alex wanted  
12 to speak on Item Number 24 and I thought that it was on  
13 Item Number 25, so I apologize. If you would like to be  
14 heard since you came all the way from Vallejo. I  
15 apologize.

16 MS. ALEX: Apology is accepted. Anyway, my name  
17 is Rosemary Alex and I am the park planner with the  
18 Greater Vallejo Recreation District and I am here  
19 speaking on behalf of the project proposal that the  
20 District submitted for the playground surface and grant  
21 program.

22 The District's proposal scored 68 out of a  
23 possible 90 and is seeking \$25,000 to install resilient  
24 surfacing for two playground structures located at  
25 Children's Wonderland. This park facility was built over

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1 40 years ago and is unique in the fact that it has  
2 incorporated a number of theme elements based on Alice in  
3 Wonderland. And for those of you from Sacramento, if  
4 you're familiar with Children's Fairyland and --  
5 Fairytale Town, excuse me, in William Land Park, it's  
6 essentially the same type of facility.  
7 This -- when the site was originally  
8 constructed, it was spearheaded by the community and took  
9 nearly eight years to complete. With the current safety  
10 standards of today, the District has been forced to  
11 remove a majority of the play structures within the site,  
12 and due to restricted budgets has not been able to  
13 replace them in a timely manner.  
14 Considering how this park was built originally,  
15 the District has established a number of partnerships  
16 with local organizations to facilitate the reconstruction  
17 of these park facilities. The partnerships include  
18 Rotary, the Rotary Club; the Kiwanis Club; the Chamber of  
19 Commerce; Valcor, it's a community recycling program; the  
20 Plumbers and Steamfitters Union; as well as a number of  
21 other local businesses.  
22 In addition, we also have support for the  
23 specific project as well as the rehabilitation of the  
24 entire site by both state Senator Wesley Chesbro and  
25 Assembly Member Patricia Wiggins to implement this  
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1 program.

2 So your consideration of funding at this time is  
3 critical in that it will provide significant momentum in  
4 completing the two sites at the park as well as foster  
5 additional community participation to complete the  
6 additional dozen sites within the park that need to be  
7 completed. I ask your consideration as you deliberate  
8 over the unused funds under Item 29 to consider this  
9 project as well as the other projects listed under item B  
10 for funding of this nature.

11 CHAIRMAN EATON: Thank you.

12 MS. ALEX: Thank you.

13 CHAIRMAN EATON: Item Number 26.

14 MS. GILDART: Item 26 will be presented by Gail  
15 Pavelko of the Special Waste Division.

16 MS. PAVELKO: Good afternoon. My name is Gail  
17 Pavelko with the Special Waste Division. I am presenting  
18 the agenda item for the award of the fiscal year 99-2000  
19 waste tire stabilization abatement contract. I also  
20 acted as the RFQ manager for this process.  
21 Our current contract with Norcal was due to  
22 expire in May. It has been extended until November of  
23 2000 for continued remediation efforts out at the Filbin  
24 waste tire site. In September and November of '99, the  
25 Board approved the fiscal year allocation of an up-to

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1 amount of \$3.6 million in contract funds for funding this  
2 contract. The current funding level is \$2.4 million.  
3 In December of 1999, the Board approved the  
4 scope of work. Staff started the RFQ process in February  
5 of 2000 as outlined in Board Regulations Title 14,  
6 Section 17022 of the California Code of Regulations.  
7 That evaluation process consisted of a completeness  
8 review of the SOQs, a detailed review of the SOQs,  
9 ranking and short-listing at least the top three  
10 companies for oral interview, conducted the oral  
11 interviews, and then a final ranking of the top three  
12 companies based on their overall score.  
13 Six submittals were submitted. A scoring panel  
14 consisting of four individuals evaluated the six SOQs  
15 using the criteria specified in the RFQ and the selection  
16 criteria in the regulation. Four companies were  
17 short-listed for oral interview. One company was  
18 disqualified because of a change of ownership, so three  
19 companies did proceed to the oral interview phase.  
20 After the oral interview, the companies were  
21 again ranked by overall score. The top ranked company  
22 was identified as Sukut Construction and staff has  
23 successfully been able to negotiate contract rates with  
24 Sukut Construction.  
25 Today staff is recommending adopting Resolution

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1 2000-254 for the award of the 1999-2000 waste tire  
2 stabilization and abatement contract to Sukut  
3 Construction.

4 CHAIRMAN EATON: My understanding is there's  
5 been correspondence regarding a challenge to the award;  
6 is that correct?

7 MS. TOBIAS: I'm sorry. I didn't hear the  
8 question.

9 CHAIRMAN EATON: My understanding is that Norcal  
10 has filed a letter of challenge; is that correct?

11 MS. TOBIAS: That's correct.

12 CHAIRMAN EATON: So if we were to adopt this, we  
13 have to do the same thing as we did before and adopt it  
14 conditionally.

15 MS. TOBIAS: Let me explain what's different  
16 about this particular situation.

17 This contract is being done under the RFQ  
18 process, the request for qualifications, and what that  
19 process means is that the process is based upon a  
20 determination of the best qualified contractor for the  
21 project. They are then ranked on their statement of  
22 qualifications. After interviews with the top three  
23 ranked contractors, the best qualified contractor is  
24 selected.

25 Just to finish the process, thereafter the Board



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1 negotiates the contract price being proposed. Unlike  
2 other state contracting processes, the contract price is  
3 not the determining award factor in an RFQ contract.  
4 Because of that and the way this is set up, there is no  
5 Board authorized protest procedure for this contract for  
6 the following reasons:

7 The first, and as I mentioned, the RFQ is not a  
8 competitive bidding process, and as such a contract  
9 awarded by this process is excluded by the Department of  
10 General Services protest procedures; second -- and  
11 therefore, DGS does not have jurisdiction to consider  
12 such a protest; second, the Board has not authorized a  
13 protest procedure for this specific contract, nor do we  
14 have a general RFQ protest procedure in our subject  
15 regulations. So therefore, a formal protest to DGS is  
16 not available.

17 What is an appropriate method for the protestee  
18 to dispute the award is a civil action that is filed in  
19 superior court.

20 CHAIRMAN EATON: So the short answer is no.

21 (Laughter)

22 CHAIRMAN EATON: Just for purposes of trying to  
23 do the motion.

24 MS. TOBIAS: I have very few short answers,  
25 actually.

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1           CHAIRMAN EATON: Good. Okay. So we don't have  
2 to do that with the condition then. Okay.

3           BOARD MEMBER JONES: I have a question.

4           CHAIRMAN EATON: I'm sorry. Mr. Jones.

5           BOARD MEMBER JONES: An SOQ that says we're just  
6 going to talk to -- I mean we're going to look at these  
7 six people and see who is the most qualified and then  
8 negotiate with them. And we've -- this is a change,  
9 isn't it, from what we -- how we normally have put these  
10 out or is it exactly the way we've always put them out?  
11 I guess my problem is that -- my problem is that  
12 if the existing contractor is deemed not to be qualified  
13 so that another contractor can get the job, I'm wondering  
14 why he got the job the last time. And then to not have a  
15 process except to file a lawsuit, that to me is similar  
16 to an issue we're going to deal with next month.  
17 I don't understand. I'm really -- I'm really  
18 trying to grapple with due process here.

19 MS. TOBIAS: And I think that's the appropriate  
20 issue to focus on is due process. I can't answer your  
21 question from a legal standpoint that you brought first,  
22 which is the issue about the present contractor and the  
23 different contractor getting it. I think that's more of  
24 a question for program staff, but I will say from the  
25 legal staff side is that many times you do have an

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1 administrative appeal put in place. I think it's  
2 important for due process there always needs to be a  
3 place to go to question whether something is reasonable  
4 or whether it's been done according to proper procedures.  
5 So generally speaking, when the contract process  
6 is under or done through regulations that are in place,  
7 DGS, the Department of General Services, does provide  
8 that appeal mechanism. In this case, they don't have  
9 jurisdiction, if you will, or we're not under their  
10 procedures and so there is no appeal process in place.  
11 certainly the Board could fashion an appeal of  
12 sorts if they so feel that that would be appropriate.  
13 You could basically schedule an appeal to come back to  
14 you to do that. That's why I also said their appeal is  
15 also to go straight to the courts, which is where it  
16 would go -- even if you did do an appeal, you could still  
17 go to court.

18 BOARD MEMBER JONES: As a second step.

19 MS. TOBIAS: Right.

20 BOARD MEMBER JONES: So here the administrative  
21 process is they don't have one with this agency, they  
22 have to go to a court of law.

23 MS. TOBIAS: Right.

24 BOARD MEMBER JONES: This contract -- is this  
25 the contract -- and it may be a different one. We had a

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1 contract that eight people bid and eight people were --  
2 seven were disqualified. Is that this contract? Not  
3 this time, the title of the contract. Is this the same  
4 thing?

5 MR. FUJII: Bob Fujii, Special Waste Division.

6 This is the same contract.

7 BOARD MEMBER JONES: Not a problem. I have no  
8 problem with staff, but it was - - that time there were  
9 eight companies. One company got it. Only one was  
10 deemed to be qualified and it was Sukut, and I then said,  
11 "How could seven other companies not be qualified?" So  
12 that's when we put in this process of everybody looking  
13 over everybody's shoulder and -- but now I'm wondering if  
14 we've refined it to the point that nobody can appeal.

15 CHAIRMAN EATON: That's historical knowledge,  
16 Mr. Jones. Historical knowledge.

17 (Laughter)

18 CHAIRMAN EATON: If you need a month, we would  
19 be happy to put it over a month, if that's the way you  
20 want to do it.

21 BOARD MEMBER JONES: I'm not -- you know, I'm  
22 worried. I don't really care about the contract. I  
23 don't care who gets the contract.

24 CHAIRMAN EATON: This was an issue you had  
25 raised some time ago where everyone was disqualified.

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1 remember the contract.

2 MS. FISH: And one clarifying point. Karen

3 Fish. This time we were more successful. We had six who  
4 qualified.

5 BOARD MEMBER JONES: We should have gone back to  
6 the old way where they all weren't. They didn't have  
7 anything to bitch -- excuse me. Anything to say.

8 (Laughter)

9 MS. FISH: There were six who did qualify. One  
10 then won the competitiveness process, so the difference  
11 is there were six who met, who were responsive and were  
12 scored. It was different than the previous time where we  
13 only had one that met the qualifications so there wasn't  
14 a competitive-competitive process.

15 BOARD MEMBER JONES: So the six -- maybe this  
16 resolves it for me. The six that are deemed qualified,  
17 do they all submit a price?

18 MS. FISH: They --

19 BOARD MEMBER JONES: Or is it these six are  
20 qualified. We think you're more qualified, so go ahead  
21 and negotiate a price with us.

22 MS. FISH: Well, they scored higher in the  
23 entire package, an entire competitive process of which  
24 price is a part of that.

25 BOARD MEMBER JONES: So they determine what

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1 their price was as part of the SOQ.

2 MS. TOBIAS: That's not correct.

3 MS. VILLA: Susan Villa with the Business

4 Administration Office. The request for qualifications

5 process goes through a scoring procedure and then there's

6 a short list and the interview process with the

7 short-listed companies and then those are ranked. Those

8 become your qualified group of contractors to select

9 from. We select the top, the highest-scoring qualified

10 contractor to begin the negotiation process with.

11 If we are unable to come to an agreement on a

12 price that is acceptable for all parties, then we go to

13 the next contractor on the qualified list. In this case

14 we were able to agree upon rates that are amenable to

15 both parties.

16 BOARD MEMBER JONES: And I'm not -- believe me.

17 I am not questioning your process, but I'm wondering --

18 my problem with this contract has always been the same

19 thing. This thing first went to Sukut where they used

20 all subcontractors, and then it went to Norcal who used

21 one identified but they had already told us what their

22 price would be. So then all the little guys got upset

23 because they couldn't work as subcontractors. And the

24 cost was -- it seemed to me when we talked about this it

25 was described as being minimal differences, but then

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1 after the item -- the agenda item it kind of looked like  
2 maybe it wasn't as minimal.  
3 And my problem with that is that we changed the  
4 process because of those few that yelled and screamed and  
5 now we've established a process where nobody can appeal,  
6 and that just -- I'm just having -- it's got to be me  
7 because I trust you guys. I just don't understand  
8 sometimes how the heck we get to where we're at because  
9 it -- we're going to have a more costly program this year  
10 in all likelihood. And that's what all the stakeholders  
11 wanted and that's fine, but to not have an appeal process  
12 without having to go to the courts, I just don't  
13 understand.

14 MS. TOBIAS: And I understand your concern and I  
15 think that's certainly something that we can move to put  
16 into place. I do want to say this is not something where  
17 we dropped the appeal process or somehow negated it.  
18 There's just not one in place for this type of procedure.  
19 This type of procedure is really based on  
20 qualifications. Your bidding process where you're  
21 dealing with price is set up because there are a number  
22 of procedures that you have to work through, and so  
23 General Services has a lot of requirements and that's why  
24 they -- the appeal goes to them. It's really not -- it's  
25 done on more of a procedural type of basis. So when

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1 you're working with these qualifications, it's a  
2 different type of approach, different type of contract,  
3 and that's certainly something that we can look at but  
4 there's been no change over the time we've been using the  
5 RFQ process.

6           BOARD MEMBER JONES: And you know, most RFQs  
7 you're going to put a bid out. 17 people do an RFQ. Ten  
8 of them are deemed to be qualified and then the next part  
9 is you put your bid package together. And that -- that's  
10 the way an awful lot of jurisdictions do it, and I'm just  
11 wondering --

12           CHAIRMAN EATON: Why we don't.

13           BOARD MEMBER JONES: Why we don't.

14 MS. TOBIAS: It's also a much longer process to  
15 do that. I think if the Board wanted to direct, if you  
16 are going to make a motion, that we consider a process to  
17 be brought back to you for some kind of appeal.

18           BOARD MEMBER JONES: I'm not sure that -- that  
19 would be after this has been awarded; is that what you're  
20 suggesting?

21 MS. TOBIAS: That would be correct.

22           BOARD MEMBER JONES: I'd like --

23           BOARD MEMBER MEDINA: I'm more familiar with the  
24 procedure than the           BOARD MEMBER just stated and at some  
25 point I would welcome an opportunity to review this



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1 particular process.

2 CHAIRMAN EATON: Well, we don't have a motion so

3 I guess we'll just continue it to next month.

4 You can't make a motion.

5 (Laughter)

6 MS. VILLA: I wanted to add just a little bit

7 more information that would possibly help clarify.

8 CHAIRMAN EATON: Perhaps maybe -- Susan, not to

9 cut you off but maybe if we can talk amongst the Board

10 Members to feel more comfortable since we have up until

11 next month, is my understanding, to award this contract.

12 MS. VILLA: Yes. This is -- the tire funding

13 would only be available until June 30th.

14 CHAIRMAN EATON: We have new Board Members, and

15 Mr. Jones and myself as well that have some historical

16 knowledge, to kind of get some sense of it and give

17 direction.

18 MS. TOBIAS: Mr. Chair, I would add to that that

19 if the Board thought there was a possibility that you

20 wanted to hold your own appeal in front of the Board, you

21 would need to do that by June in order to encumber this

22 money. So I just want to add that. You may want to

23 discuss this in closed session.

24 BOARD MEMBER JONES: I have one question. This

25 allocation says up to \$3.6 million and that's so we can

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1 add to it. What do we have available? What did the  
2 people that were bidding on this thing think was going to  
3 be available? What guarantees did they have?

4 MS. FISH: It indicated up to \$3.6, but the  
5 actual money the Board had allocated was \$2.4.

6 BOARD MEMBER JONES: \$2.4 million.

7 MS. FISH: Exactly.

8 BOARD MEMBER JONES: Okay. Mr. Chairman.

9 CHAIRMAN EATON: Mr. Jones.

10 BOARD MEMBER JONES: I think we have two agenda  
11 items here. I think one agenda item, like my colleague  
12 Mr. Medina said, we're familiar with a certain way and I  
13 think that may need to come back and get a comfort level.  
14 I don't think staff -- I think staff did everything  
15 right. I really do. Got that? Okay. I think you  
16 guys --

17 CHAIRMAN EATON: They feel it too.

18 BOARD MEMBER JONES: But sometimes I think we  
19 need to look at the bigger pictures here so we can talk  
20 about what we think gives people the most coverage, the  
21 most access and the most fairness.

22 I would be prepared to move this resolution so  
23 that we are not stagnant, but only to a total of \$2.4  
24 million which is there and we can augment that by 30  
25 percent; correct? If we wanted to take dollars and

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1 augment this contract, what do we do? To 20 percent or  
2 30 percent?

3 MS. VILLA: If you're saying in the current  
4 status that you would just go to \$2.4 and the up-to \$3.6  
5 would no longer be available.

6 BOARD MEMBER JONES: That would be drawing --

7 MS. VILLA: That would be drawing the line at  
8 the \$2.4.

9 BOARD MEMBER JONES: That would be putting a  
10 line through that.

11 MS. VILLA: Then only 30 percent above that  
12 would be available.

13 BOARD MEMBER JONES: So another \$600-some,  
14 \$720,000 if we needed to which would get them up to \$3.1.  
15 Mr. Chairman.

16 CHAIRMAN EATON: Mr. Jones.

17 BOARD MEMBER JONES: I will move adoption of  
18 Resolution 2000-254 amended to say that on the -- one,  
19 two, three -- fourth whereas, the Board approves the  
20 1999-2000 fiscal year allocation of \$2.4 million in  
21 contract funds for current fiscal year waste  
22 stabilization. So I took out "up to," and on the last  
23 page and the "now, therefore," the Board approves Sukut  
24 Construction as contractor in an amount of \$2.4 million.  
25 We have that money; correct? Okay.

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1           CHAIRMAN EATON: All right. I'll second the  
2 motion.

3 Mr. Jones moves and Mr. Eaton seconds that we  
4 adopt Resolution 2000-254 as amended to include the  
5 "whereas" where the fiscal 1999-2000 fiscal year  
6 allocation would be \$2.4 million and "resolved" that the  
7 contract will only be awarded up to \$2.4 million.

8           BOARD MEMBER JONES: Allocation of \$2.4 so that  
9 they can amend it if they have to, correct, if we have  
10 available money.

11          CHAIRMAN EATON: Madam Secretary, please call  
12 the roll.

13          BOARD SECRETARY: Board Members Jones.

14          BOARD MEMBER JONES: Aye.

15          BOARD SECRETARY: Medina.

16          BOARD MEMBER MEDINA: Aye.

17          BOARD SECRETARY: Moulton-Patterson.

18          BOARD MEMBER MOULTON-PATTERSON: Aye.

19          BOARD SECRETARY: Paparian.

20          BOARD MEMBER PAPARIAN: Aye.

21          BOARD SECRETARY: Roberti.

22          BOARD MEMBER ROBERTI: Aye.

23          BOARD SECRETARY: Chairman Eaton.

24          CHAIRMAN EATON: Aye.

25 Mr. Jones, did you want to ask the staff to be

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1 directed on something else on that? I thought you had a  
2 second one.

3           BOARD MEMBER JONES: I would like staff to come  
4 forward and let's talk about the RFQ and RFP process, and  
5 maybe not just this contract but a couple others where  
6 just for familiarity point so we can discuss and  
7 determine all those processes, who's looking over whose  
8 shoulder and what are the administrative remedies if  
9 there is going to be a conflict over an award, and maybe  
10 some options that we can discuss as potential options  
11 that if five people are qualified, then the second step  
12 might be another bid package. While that is -- you know,  
13 takes time, maybe we have to start the process earlier in  
14 the year. You need to tell us what those hurdles are.

15           CHAIRMAN EATON: Is there a particular time you  
16 want that to come back?

17           BOARD MEMBER JONES: I'm going to rely on staff  
18 to take care of this Board's knees.

19 (Laughter)

20           CHAIRMAN EATON: Item Number 27, I believe.

21 MS. GILDART: Item 27 is consideration of  
22 approval of fiscal year 99-2000 waste tire enforcement  
23 grants.

24 This is our fourth cycle of providing grants to  
25 local governments to carry out enforcement activities.

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1 In September, the Board allocated funding up to \$500,000  
2 and then in November the Board adopted the scoring  
3 criteria.

4 We sent out 650 notices of funds available and  
5 received eight applications, all of which were deemed  
6 qualified, though some of the funds requested were  
7 slightly modified by staff.

8 We are recommending funding all eight applicants  
9 which show on page 27-3 for a total of \$499,645.

10 Do you have any questions?

11 CHAIRMAN EATON: Any questions?

12 BOARD MEMBER JONES: Just one quick one for  
13 Tulare County. We're going to give you \$100,000. Next  
14 time we ask somebody to help us survey something, you  
15 guys need to push whoever needs to be pushed to get it  
16 done. We don't mind spending money, but you've got to  
17 give us a little help on some of these other things.

18 BOARD MEMBER MOULTON-PATTERSON: Mr. Chairman.

19 CHAIRMAN EATON: Ms. Moulton-Patterson.

20 BOARD MEMBER MOULTON-PATTERSON: I'd like to  
21 move approval of Resolution 2000-245 for the fiscal year  
22 1999-2000 waste tire enforcement grants.

23 CHAIRMAN EATON: I'll second the motion.

24 Ms. Moulton-Patterson moves and Mr. Eaton  
25 seconds we adopt Resolution 2000-245.

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1 Madam Secretary, please call the roll.

2 BOARD SECRETARY: Board Members Jones.

3 BOARD MEMBER JONES: Aye.

4 BOARD SECRETARY: Medina.

5 BOARD MEMBER MEDINA: Aye.

S BOARD SECRETARY: Moulton-Patterson.

7 BOARD MEMBER MOULTON-PATTERSON: Aye.

8 BOARD SECRETARY: Paparian.

9 BOARD MEMBER PAPARIAN: Aye.

10 BOARD SECRETARY: Roberti.

11 BOARD MEMBER ROBERTI: Aye.

12 BOARD SECRETARY: Chairman Eaton.

1'3 CHAIRMAN EATON: Aye.

14 Item Number 28.

15 MR. FUJII: Good afternoon, Members of the

16 Board. Bob Fujii, Special Waste Division.

17 Item 28 is the consideration of approval of

18 award of fiscal year 1999-2000 oversight of civil

19 engineering applications using waste tires incentive

20 contract, IWM-C9030. This contract will be used to

21 provide incentive for use of tire shreds in civil

22 engineering applications. Specifically, the contractor

23 will provide instruction oversight in projects in which

24 tire shreds are used and if necessary to purchase tire

25 shreds for civil engineering projects.

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1 We've been fortunate over the last two and a  
2 half years in negotiations with Caltrans being able to  
3 identify a project in the city of San Jose on the 880  
4 freeway, the Dixon Landing overpass, using lightweight  
5 shreds. So we'll be using this contract to basically  
6 provide those shreds for that type of use.  
7 Previous Board actions, the Board approved  
8 funding for contract in September 1999 for \$400,000;  
9 approved the scope of work in December of 1999. The  
10 application process was that we requested qualifications.  
11 RFQs were mailed out on February 7, 2000. The deadline  
12 for submitting was then May 31st, 2000.  
13 We received only one responsive company, the IT  
14 Corporation. The IT Corporation was reviewed for  
15 completeness, evaluated by a review panel. Based on that  
16 review, IT Corporation's SOQ met the minimum requirements  
17 and it was determined by the panel they would be capable  
18 of performing the work planned for this contract.  
19 And based on that, staff is recommending that  
20 you approve Resolution 2000-258 awarding this contract to  
21 IT.

22 CHAIRMAN EATON: Any questions of staff?

23 MR. FUJII: Any questions?

24 BOARD MEMBER JONES: Mr. Chairman, I'll move  
25 adoption of Resolution 2000-258, the award of fiscal --



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1 for fiscal year 99-200 oversight of civil engineering

2 using waste tires incentive contract, IWM-C9030.

3 CHAIRMAN EATON: I'll second the motion.

4 Mr. Jones moves and Mr. Eaton seconds we adopt

5 Resolution 2000-258.

6 Madam Secretary, please call the roll.

7 BOARD SECRETARY: Board Members Jones.

8 BOARD MEMBER JONES: Aye.

9 BOARD SECRETARY: Medina.

10 BOARD MEMBER MEDINA: I'd like to abstain on

11 this given that Caltrans evaluated the SOQ.

12 BOARD SECRETARY: Moulton-Patterson.

13 BOARD MEMBER MOULTON-PATTERSON: Aye.

14 BOARD SECRETARY: Paparian.

15 BOARD MEMBER PAPARIAN: Aye.

16 BOARD SECRETARY: Roberti.

17 BOARD MEMBER ROBERTI: Aye.

18 BOARD SECRETARY: Chairman Eaton.

19 CHAIRMAN EATON: Aye.

20 BOARD MEMBER JONES: Mr. Chairman, real quick.

21 I know we've got a lot of stuff to do. When I got

22 briefed on this, the success of this program is dependent

23 on us bringing shreds to that site so Caltrans gets what

24 it needs. We can't stockpile because of our regs. We

25 need to look at our regs. This is -- for us not to be

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1 able to stockpile a feedstock that could move us forward,  
2 we need to look at our regs. There is something wrong  
3 when we can't satisfy our customers' needs because of our  
4 regulations and at some point we need to figure it out.

5 CHAIRMAN EATON: All right. Thank you,  
6 Mr. Jones.

7 Mr. Leary, this is your allocation.

8 MR. LEARY: Yes, sir.

9 CHAIRMAN EATON: Item 29.

10 MR. LEARY: Reallocation of tire funds. I'm  
11 referring to revised agenda Item 29, which we have  
12 circulated to the Board Members I hope by now, and you  
13 have that before you.  
14 Revised table one summarizes exactly where we  
15 are in terms of the allocations and encumbrances and the  
16 balances remaining to be allocated in the next fiscal  
17 year. Summarizing, the bottom of page 29 revised table  
18 one, the Board allocated \$8.645 million in the process  
19 back in August and September. Since then we've  
20 encumbered.

21 That number will change as reflected by the most  
22 recent discussion in Agenda Item 26. It changes to the  
23 effect that the balance now, and you might want to write  
24 this in, with the addition of the -- let me step back  
25 here. Up in the P and E totals of stabilization and

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1 abatement account, although the Board allocated \$3.6, you  
2 just encumbered \$2.4.

3           CHAIRMAN EATON: How much? \$2.4?

4 MR. LEARY: \$2.4 as a result of the action you  
5 just took on Item 26. So you have a balance on that line  
6 of \$1.2 million. If you carry that \$1.2 million down to  
7 the bottom of the page, the remainder to be allocated in  
8 this agenda item is now \$2,623,797.

9           CHAIRMAN EATON: Is that on a WP and MD total  
10 line?

11 MR. LEARY: No. The \$1.423 changes to \$2.623.  
12 Prior to this change in agenda Item 26, the staff's  
13 recommendations for reallocation are summarized in table  
14 2, which is at the back of this agenda item. But again,  
15 this only gets to the total of \$1,423,797 and it now  
16 needs to be modified since you've limited the ability to  
17 put money in the waste tire and abatement contract. We  
18 had proposed

19           CHAIRMAN EATON: Is there a second contract we  
20 can come up with so that we can put in a second contract  
21 as yet to be bid on?

22 MR. LEARY: I would need some help from --

23           CHAIRMAN EATON: In other words, yes, there is a  
24 waste stabilization contract, but if there is another  
25 contract that is yet to be awarded, or can we still add

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1 to the existing contract?

2 MR. LEARY: We can still add to the existing  
3 contract given that 30 percent leverage that we talked  
4 about in the previous agenda item. So there's another 30  
5 percent of the \$2.4 which is almost \$800,000.

6 CHAIRMAN EATON: No. The existing contract,  
7 that's this year's contract.

8 MR. LEARY: This year's Norcal contract.

9 CHAIRMAN EATON: How much was that?

10 MR. FUJII: You can't augment that one.

11 MR. LEARY: It's been maxed out for the contract  
12 total. We can't go beyond what we've already put into  
13 it. We cannot --

14 CHAIRMAN EATON: All right.

15 MR. LEARY: Let's carry on just a little bit  
16 here. The -- there's a couple of amounts here on the  
17 table, \$70,000 and \$185,000 that we're suggesting at this  
18 point that are kind of not negotiable in the sense that  
19 we owe the AG's office for their support in various legal  
20 actions that we've taken to the tune of \$70,000, and with  
21 the creation of the new Special Waste Division and our  
22 portion of the rent and staff costs and such, we owe back  
23 to the Board, another \$185,000. Those are kind of  
24 non-negotiable at this point.

25 CHAIRMAN EATON: Not a good term to use.

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1 (Laughter)

2 MR. LEARY: I apologize. Those are commitments

3 we need to meet --

4 CHAIRMAN EATON: There you go.

5 MR. LEARY: -- but obviously you, the Board, can

6 direct us to do anything you like.

7 CHAIRMAN EATON: Bad habits from that other

8 agency.

9 (Laughter)

10 CHAIRMAN EATON: Mr. Paparian. And I have one

11 comment.

12 BOARD MEMBER PAPARIAN: I think I'm following

13 this, but it seems like there's a large chunk of money

14 that's not allocated and is it appropriate to suggest

15 that we have some options presented to us?

16 CHAIRMAN EATON: Right. And I have one option.

17 It's funny you should mention that.

18 BOARD MEMBER PAPARIAN: I wonder if we could do

19 it at the next meeting. I want to hear yours.

20 CHAIRMAN EATON: Sure. One of the options that

21 I have, as Mr. Leary pointed out, that those items that

22 are essential, so to speak, I would propose we fund the

23 \$70,000 out of this money as well as the \$185,000 for the

24 staffing purposes. Then on Item Number -- I think it was

25 24, which dealt with the playground mats to list B, if

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1 you look at list B, was it Item 24? List B, those had --  
2 if you look at the geographic spread here, Members, it  
3 goes Santa Barbara, many projects in Orange, Los Angeles,  
4 did a lot up in rural counties, we would have enough  
5 money to fund each and every one of those projects.

6 BOARD MEMBER JONES: That would be B.

7 CHAIRMAN EATON: That would be the B list.  
8 Remember? We could fund the B list. That would amount  
9 to approximately \$597,116, something like that.  
10 Then in addition, the City of Avenal -- I don't  
11 know if they're here -- but they had expressed an  
12 interest if they wanted to speak. Remember Avenal was on  
13 a compliance order? They have done very, very well.  
14 They have asked if maybe they could help work with us and  
15 get rubberized asphalt money. They have five projects  
16 they would like funded at \$135,000 total. They are here  
17 to speak today.  
18 And then the remainder of the money, whatever  
19 sum is left over, because we have the cap we would have  
20 that to either allocate partially into the waste  
21 stabilization cap and then maybe a few dollars over.  
22 So in essence my proposal would be to fund the B  
23 list, which seems to have a lot of good projects on it  
24 for schools and all the other things, as well as perhaps  
25 the Avenal project. The rest would just tip over.

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1 BOARD MEMBER JONES: To next month's meeting?

2 CHAIRMAN EATON: The remainder. Can we get it  
3 done for the remainder by next month? We have to  
4 encumber by June 30th. That's why we've been doing it in  
5 May lately.

6 MS. FISH: I think what would happen here is we  
7 would need to bring back an item relative to Avenal to  
8 determine what mechanism that money would be granted. We  
9 have no application, so --

10 CHAIRMAN EATON: And how about the other items  
11 Mr. Paparian is talking about?

12 BOARD MEMBER PAPARIAN: Seeing some options  
13 available to us in June.

14 MS. FISH: Absolutely. Yes. So we could bring  
15 that back as well.

16 Now, if we could go through the amounts, it  
17 would be the \$70,000, the \$185,000, then fully funding  
18 the B list.

19 CHAIRMAN EATON: If we could do that today, if  
20 that wasn't a problem. I don't want to force  
21 Mr. Paparian into that. We had a speaker here that seems  
22 to be a pretty good geographical spread, and whatever was  
23 left over we bring back next month.

24 MS. FISH: And then if you looked at an Avenal  
25 RAC project, that would take you under the 30-percent

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1 cap, so then could you allocate the remaining money to  
2 the waste tire stabilization or a portion and then  
3 consider some other projects for June.

4 BOARD MEMBER JONES: Mr. Chairman.

5 CHAIRMAN EATON: Mr. Jones.

6 BOARD MEMBER JONES: I don't know if anybody  
7 else was talked to about this, but there was an equipment  
8 grant that we had put out that had scoring like 40, or I  
9 forget what the number was. Laken got one. We gave  
10 three grants out last month and month before. It was  
11 commercial. It was for actual equipment.

12 MS. GILDART: The Board approved funding the  
13 three grants that applied to the commercialization  
14 program for \$300,000 total. There were additional  
15 applications but they had not received a passing score.  
16 I understand there's been interest and requests  
17 to have that score altered for the passing level to be  
18 able to fund additional projects.

19 BOARD MEMBER JONES: That may be what they  
20 wanted. I wanted to know what the grant -- what the  
21 criteria was that is there. You know, do we have time to  
22 go back and either look at those projects again? We  
23 probably don't have time to rebid them. I don't -- what  
24 was the total numbering that they had to get? What was  
25 the passing grade?



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1 MS. GILDART: 35 was passing.

2 BOARD MEMBER JONES: How many were possible.

3 MS. GILDART: We had three passed and those were  
4 funded. There was one that came in at 32 and one that  
5 came in at 31 points.

6 BOARD MEMBER JONES: What was the total? What  
7 was the best score you could get?

8 MS. GILDART: 70 percent was passing. I can  
9 look that up. I think it was about 60 points.

10 CHAIRMAN EATON: I think the question is would  
11 we be eligible to fund those --

12 BOARD MEMBER JONES: I don't want to drop the  
13 bar. I don't think that's good policy that we set a bar  
14 and drop it just to arbitrarily take care of something,  
15 but I would like to know what -- how arbitrary the bar  
16 was and just take a look at what we're doing there to  
17 figure out -- there's obviously not enough time to rebid  
18 these things, but I they will tell you one of them has  
19 potential to eat up a lot of tires.

20 MS. GILDART: The criteria adopted by the Board  
21 in a meeting earlier, and there was a total of 50 points,  
22 30 of which were our typical general review criteria and  
23 there are the three preference criteria. It was 50  
24 points so that out of that 70 percent was 35 points and  
25 that was part of the Board's action in adopting the

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1 criteria.

2 MS. FISH: BOARD MEMBER Jones, would it be  
3 possible in this item to allocate the givens that we  
4 know, the \$70,000, the \$185,000, the B list --

5 BOARD MEMBER JONES: \$597,000.

6 MS. FISH: Right. And then come back with an  
7 item that is another reallocation item with  
8 recommendations of where we could either add to the waste  
9 tire stabilization contract and/or discuss some of these  
10 other options that might be available?

11 BOARD MEMBER JONES: I have no problem with  
12 that. If you have one week to encumber the money, how  
13 are we going to get that done?

14 MS. FISH: We have a crack accounting staff that  
15 can take care of that.

16 (Laughter)

17 BOARD MEMBER JONES: You know, I know it may  
18 have caused a problem today to cut from that \$3.6 to  
19 \$2.4, but to me it was an equity issue. And I don't  
20 think that -- I don't think we cannot give people due  
21 process and, you know -- so that's not a solution on --

22 CHAIRMAN EATON: We have two public speakers,  
23 Mr. Leveille and --

24 MR. LEVEILLE: I'll wait until next month.

25 CHAIRMAN EATON: Mr. Watson from the City of

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1 Avenal. Do you care to say anything or we'll be taking  
2 up, I assume -- please feel free. You've spent all day  
3 here.

4 MR. WATSON: I'd first like to welcome you to  
5 the fair city of Visalia, which I reside in, and thanks  
6 for having the meeting here which accommodated a lot of  
7 us who travel to Sacramento.

8 The City of Avenal is right now currently in the  
9 process of starting some reconstruction projects. For  
10 the last five years I have been studying and going over  
11 the adverse effects of what rubberized asphalt does, and  
12 I know the states of Arizona and New Mexico have been  
13 using this for a tremendous amount of years and have done  
14 a lot of studies on it.

15 Caltrans about five years ago resurfaced the 33  
16 highway, which runs through the City of Avenal, with  
17 rubberized asphalt and I have been watching this asphalt  
18 and there are not any surface cracks whatsoever. And in  
19 the last five years I have not noticed anything happening  
20 to that asphalt and so, therefore, when I was told there  
21 was the possibility of the Integrated Waste Board would  
22 have any funds available, I looked into this.

23 I talked with Arnie Sowell and Greg Dick and  
24 Heidi Sanford (sic) about this and wanted to know if  
25 there was any funds available that could possibly help

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1 the City of Avenal in the reconstruction project to use  
2 these as overlays.

3 I also discussed this with Lynn Nicholson of Los  
4 Angeles Rubberized Asphalt Center, how they use their  
5 asphalt in southern California. I got some great ideas  
6 in what it has done for them as far as the durability of  
7 their street projects. Taken into consideration the City  
8 of Avenal is a small community of approximately 6200 to  
9 6300 people, if you don't count the prison, we're up to  
10 13,000 but a lot of those don't walk our streets.

11 (Laughter)

12 CHAIRMAN EATON: Or drive your roads.

13 MR. WATSON: Unfortunately, a lot of the people  
14 who work at the prison live outside the City of Avenal  
15 and use the streets of the City of Avenal to drive on,  
16 and with increased traffic has increased the means of  
17 more maintenance on these roads, especially on 7th Avenue  
18 which is the road soon to be under reconstruction also.  
19 I talked with Grant Construction Company.

20 They're a large company throughout the state of  
21 California who does a lot of paving with rubberized  
22 asphalt concrete. At this point they're installing a  
23 plant at their plant in Coalinga, approximately 17 miles  
24 away. They are going to pave 200 lane miles of 1-5.  
25 Therefore, there would be a considerable savings of the

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1 City of Avenal if we were to be lucky to obtain any of  
2 these monies from the Integrated Waste Board.  
3 The City of Avenal would also like to be, if  
4 were lucky to obtain these, to be a demo site within the  
5 region, to be able to show other small cities and other  
6 medium-sized cities what the asphalt will do for their  
7 city roads. We would also be ready to make presentations  
8 or facilitate seminars on the rubberized asphalt concrete  
9 within our jurisdiction.  
10 This may be out of text. That's pretty much  
11 what I have to say about the grants and the monies that  
12 are available. I will not be here tomorrow. Being the  
13 Public Works Director in a small city, I have many hats  
14 to wear and a thousand things to do at the same time.  
15 There are a few people in this audience that I would like  
16 to acknowledge to this Board who have helped the City of  
17 Avenal tremendously, and from the start of everything  
18 that we've done since last year to up to now.  
19 Heidi Sanborn, could you please stand please?  
20 Greg Dick, could you please stand please? It is a great  
21 pleasure to be able to work with educated professionals  
22 who have a sense of humor and do their job well. I would  
23 like to thank the Board, expressing from the City of  
24 Avenal and especially from myself, to be able to work  
25 with these two people. Heidi took me in and put a chain

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1 through my nose and drug me around and showed me exactly  
2 what I was supposed to do.

3 (Laughter)

4 MR. WATSON: I appreciate that. I was a rookie  
5 when I first started. I feel that I have --

6 CHAIRMAN EATON: That's not our definition of  
7 compliance.

8 (Laughter)

CHAIRMAN EATON: That may be Heidi's, but it's  
10 not ours.

11 (Laughter)

12 MR. WATSON: I say that with utmost respect  
13 because we were in dire need of somebody to direct me and  
14 the City and also direct our Council exactly what is  
15 important and what we had to do. And without you -- I  
16 appreciate it immensely from the bottom of my heart that  
17 we would have been able to achieve this in such a short  
18 time.

19 I would also like to thank you for Items 19 and  
20 39. I bring that expression from the Mayor, the City  
21 Council and also from the City Manager, and we thank you  
22 for what you stand for and how hard you work.  
23 Thank you very much.

24 (Applause)

25 CHAIRMAN EATON: Members, if it's okay, I'll

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1 make the motion that we that we approve the reallocation  
2 program funds as follows. Mr. Leary, I'm trying to get  
3 your exact wording here. That we approve the  
4 reallocation program funds for the fiscal year 1999-2000  
5 as follows: That \$70,000 would go for legal fees  
6 associated with the Attorney General's office; \$185,000  
7 would go for staff services, I believe that's how you  
8 designated those; and that we would fund the B list in  
9 Item Number 24 to the tune of --

10 MR. LEARY: \$597,116.

11 CHAIRMAN EATON: \$597,116, and that the  
12 remainder of those funds would be allocated at the June  
13 meeting.

14 BOARD MEMBER JONES: I'll second.

15 CHAIRMAN EATON: All right.

16 Mr. Eaton moves and Mr. Jones seconds that we  
17 adopt Resolution 2000-253 as amended with the  
18 reallocation and the direction for the June.  
19 Madam Secretary, please call the roll.

20 BOARD SECRETARY: Board Members Jones.

21 BOARD MEMBER JONES: Aye.

22 BOARD SECRETARY: Medina.

23 BOARD MEMBER MEDINA: Aye.

24 BOARD SECRETARY: Moulton-Patterson.

25 BOARD MEMBER MOULTON-PATTERSON: Aye.

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1 BOARD SECRETARY: Paparian.

2 BOARD MEMBER PAPARIAN: Aye.

3 BOARD SECRETARY: Roberti.

4 BOARD MEMBER ROBERTI: Aye.

5 BOARD SECRETARY: Chairman Eaton.

6 CHAIRMAN EATON: Aye.

7 Item Number 30.

8 MS. WILD-WAGNER: Good afternoon, Mr. Chairman

9 and Board Members. I'm Shirley Wild-Wagner, Manager of

10 the Used Oil and Household Hazardous Waste Branch.

11 This item is for the consideration of the

12 approval of the scope of work for phase two of the

13 boating clean and green campaign. In 1997, the Board

14 entered into an agreement with the California Coastal

15 Commission to develop the boating clean and green

16 campaign, and that three-year agreement ends this month,

17 May 2000.

18 Today's item describes the scope of work for

19 phase two of the boating clean and green campaign and

20 will extend the work through September 2000. Back in

21 November 1999, the Board approved the used oil Contract

22 Concept Number 3 which is for an interagency agreement

23 that conducts outreach to used oil do-it-yourself target

24 audiences, this is such an outreach contract. This would

25 be for an interagency agreement with the California



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1 Coastal Commission for \$157,700.  
2 The approval of this scope of work would allow  
3 the Board to continue the strong partnership and  
4 successful operation of the California Coastal  
5 Commission, the outreach campaign, and to provide  
6 services in support to local programs such as those  
7 described in attachment 3 of your agenda item. This  
8 lists all of the agencies that have benefited over the  
9 last three years from the boating clean and green  
10 campaign and the work the California Coastal Commission  
11 includes local governments, city and county governments,  
12 non-profit organizations, private enterprises, harbors  
13 and marinas and state and federal organizations also.  
14 This afternoon we have with us Chris Parry, the  
15 manager of the public education section of the Coastal  
16 Commission and Miriam Gordon, the boating clean and green  
17 campaign manager, to kind of discuss the campaign with  
18 you, the accomplishments over the last three years,  
19 describe some of the successes of the programs and answer  
20 any questions you may have on the campaign.  
21 Chris.

22 CHAIRMAN EATON: Any questions of staff?

23 MS. PARRY: Good afternoon, Mr. Chairman and  
24 Members of the Board. My name is Chris Parry and I'm the  
25 manager of the public education program at the California

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1 Coastal Commission and I'm just going to say a few words  
2 and turn it over to Miriam Gordon, who is really the  
3 manager of this program and is going to talk to you more  
4 about the details of what we've accomplished as well as  
5 what we hope to accomplish in the next phase.  
6 I'm very proud of this program. I feel that the  
7 program has been exceptional in a variety of ways, and  
8 one of the ways that it's been exceptional is our  
9 relationship with the Board staff. I want to echo the  
10 last gentleman's praise of the Board staff in that we've  
11 had a really good experience as well and they've really  
12 been more of a partner than just a funding agency to us.  
13 So that's been great.  
14 Another thing that's been quite exceptional  
15 about this campaign is that we really did quite a lot of  
16 research in the beginning of the process to really  
17 determine what the -- what the campaign should look like  
18 and how it should take shape. We did a survey of boater  
19 practices, tried to determine what motivates behavior  
20 change in boaters, and also what kinds of educational  
21 formats would be most effective in communicating our  
22 messages.  
23 We designed the model campaign based on this  
24 research and had quite a broad implementation of the  
25 campaign as well. Another thing that's quite

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1 exceptional, I think, is the partnerships that we've  
2 developed. It's been a very broad-based campaign in  
3 terms of the numbers of organizations that we work with  
4 and have really leveraged the power of the campaign quite  
5 extensively.

6 And last I would just like to touch on the  
7 technical assistance that we've provided. That was an  
8 effort to really identify what types of services and  
9 technologies were available to prevent pollution from  
10 boats and then to work with the local governments, local  
11 grantees, including the used oil program grantees, to  
12 build these facilities and establish these services.

13 Now I'd like to turn it over to Miriam Gordon  
14 who will tell you more of the details about the campaign.  
15 Thank you.

16 MS. GORDON: Thank you. I am Miriam Gordon.

17 I'm the manger of the boating clean and green campaign.  
18 And I just wanted to -- as Chris described, we had a very  
19 comprehensive program and I want to highlight a few of  
20 our accomplishments in the past to give you a picture of  
21 how we're proposing to capitalize on these  
22 accomplishments and move to the future in phase two.  
23 I brought a little. bit of a show-and--tell. Last  
24 time I came here I came with a bucket and some of the  
25 Board Members will remember me as the bucket lady, and

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1 now we're moving on to canvas bags so now you can  
2 remember me as, I'm sorry to say, the bag lady.  
3 This is just one of the examples of the products  
4 that we developed in our outreach component. You now  
5 have a cover page with a bulleted list of just some of  
6 the examples of our accomplishments and and outreach.  
7 As some of you will remember our main outreach  
8 tool for education was we proposed to develop a boater  
9 kit and we developed 30,000 boater kits involving several  
10 sponsors, state agencies and private sponsors. I won't  
11 go through it, but I've got a sample for each of you to  
12 take a way as a souvenir. We developed 30,000 of these  
13 and distributed them through boat shows, through boat  
14 dealerships and marine dealerships and also through our  
15 trained dock walkers. And since dock walkers are going  
16 to be a major focus in our future program, I'll tell you  
17 quickly that dock walkers is a program originally  
18 developed by Save our Shores in Santa Cruz and is a  
19 volunteer training program and we have taken that concept  
20 and we have made it a statewide training program.  
21 In partnership with programs like the Coast  
22 Guard auxiliary, we have trained boaters to go out and do  
23 waterfront education with boaters to go to the boat  
24 launch ramps and docks and really address boaters at  
25 their boats, to talk about environmentally sound boating

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1 practices. They give them these kits and the absorbent  
2 pads for the oil and the bilge inside and we found this  
3 face-to-face boater education to be the most successful  
4 form of education in the program program. So we propose  
5 to continue that.  
6 In addition, we distributed 250 boat launch  
7 ramp signs at 110 sites and we continue to distribute  
8 those signs. Although the program has ended, the Coastal  
9 Commission is continuing to distribute some additional  
10 signs and I'll just show you a quick one. We did them in  
11 two sizes and in two languages. You cannot fail to  
12 notice this sign and the message, given the colors. We  
13 also did it in Spanish. I have the Spanish sign, but for  
14 brevity I won't show you.  
15 We also did a shopping clean and green display.  
16 We found in our research that the main places where  
17 boaters received and obtained information on boat  
18 maintenance is at boat shows and at marine supply shops,  
19 so -- and also let me show you the boating shop display.  
20 This is the display and it has a pocket in the front, and  
21 your second page you have a sample of the card that goes  
22 in the front of that pocket which gives three 800 numbers  
23 that are also repeated on the boat launch ramp signs.  
24 So these displays have been distributed through  
25 the Coast Guard auxiliary marine dealer visitor program,

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1 as well as the Coastal Commission, to marine supply shops  
2 throughout the state. And we also have developed many  
3 other forms of outreach media, including the boating  
4 clean and green web site, publication of numerous  
5 articles and public service announcements, many other  
6 forms of outreach.

7 In addition, the program provided technical  
8 assistance to at least 53 agencies in a one-on-one  
9 format. We also are the facilitator of the California  
10 clean boating network, the Coastal Commission and our  
11 partner the Santa Monica Bay Restoration Project, which  
12 facilitated two chapters of the boating network which  
13 draws together over 140 organizations and entities  
14 statewide to focus on education and outreach and also as  
15 a vehicle for providing technical assistance.

16 In addition to the CCBN, we developed two  
17 conferences, one in northern California one in southern,  
18 to focus on bringing marina operators and used oil  
19 program grantees and other local jurisdictions and other  
20 boater education programs together to talk about needs  
21 for environmentally sound boating, as well as identify  
22 technologies and services to implement.

23 We've also provide a substantial amount of  
24 guidance in recommending facilities, identifying  
25 equipment and providing permit and regulatory advice to

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1 these local program partners. So what -- we have gained  
2 a tremendous amount of momentum in phase one.  
3 Phase two is about capitalizing on that  
4 momentum. We have built a tremendous number of  
5 partnerships and we have gotten the ideas. We've  
6 developed the concepts for different technologies to  
7 reduce oil pollution and to improve used oil collection,  
8 and we want to provide this kind of service to your used  
9 oil program grantees, the local jurisdictions, the  
10 non-profits, as well as marina operators, that will  
11 result in even more services and facilities being  
12 implemented and to take the model for education that  
13 we've developed and take it even further statewide so  
14 that we can reach even larger number of boaters.  
15 We have reached an incredible number of  
16 boaters. 85 percent of the boaters in California use  
17 boat launch ramps, so since we have been successful in  
18 targeting most of the boat launch ramps, we've targeted  
19 85 percent of the boaters. And in addition, we've done  
20 all this other multimedia outreach that I described.  
21 In the future we propose to expand the dock  
22 walkers program, conduct seven training workshops  
23 statewide and develop more boater kits, and the boaters  
24 kit concept is very popular with the grantees of the used  
25 oil program. We've been approached by 26 grantees so far

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1 to help assist them in compiling or putting together  
2 boater kits or implementing some of the services and  
3 facilities.  
4 We intend to provide that kind of service in  
5 phase two. In developing boater kits we propose with the  
6 funding for this scope of work to develop 5,000 for the  
7 outreach that the Coastal Commission would do, but we  
8 would also assist those 26 partners plus any others that  
9 we are able to generate during the course of the campaign  
10 in developing boater kits for their own programs. And  
11 the benefit of developing one uniform boater kit is that  
12 there's a tremendous economy of scale. So everyone will  
13 be able to do more outreach with less resources.  
14 We will also expand on our chemical assistance  
15 capability. One of the problems that we found out there  
16 is that few marinas with their bilge pump-out facilities,  
17 with their oil change programs, with the used oil  
18 collection programs, few of them are tracking the amount  
19 of oil collected and there's very little monitoring of  
20 those programs. So we propose to develop that kind of a  
21 monitoring and tracking system and use the California  
22 clean boating network as a method of conveying that  
23 information •and the results of that monitoring, and to  
24 continue to research new technologies and equipment to  
25 convey to your program grantees and to continue assisting



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1 in addressing regulatory and permit issues to try to fill  
2 the gaps in services, for example, used oil collection.  
3 I just want to turn your attention to the third  
4 page which is a chart that was provided by the San Diego  
5 Marine Safety Office of the Coast Guard. It's this blue  
6 and red chart. I just want to use this as an example to  
7 show that dock walkers has been a truly successful  
8 program. The Coast Guard Marine Safety Office in San  
9 Diego started doing dock walking in early 1997 to address  
10 environmentally sound boating as well as oil spill  
11 prevention, and you can see that over -- actually we  
12 started a little earlier than '97. You can see that over  
13 time in Mission Bay there was a substantial decrease in  
14 the number of gallons of oil spilled. And then on the  
15 second page it looks -- that chart shows the number of  
16 gallons spilled from personal vessels, personal craft,  
17 and at marinas, and also over time there was a decrease  
18 in the number of gallons spilled from personal  
19 recreational vessels. So this is an example of how dock  
20 walkers works. We propose to set up the same type of  
21 tracking system in other geographic areas relying on the  
22 same oil spill reporting information.  
23 Finally, I just want to tell you that we have a  
24 tremendous amount of support from the grantees who are  
25 already engaged in outreach, boater education or planning

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1 boater education or planning to install bilge pump-out  
2 facilities, oil exchange -- used oil and oil change  
3 programs, as well as distribution and collection of  
4 absorbent pads, and to testify to the large amount of  
5 support that we have, there's a replication of 12 of the  
6 support letters that were sent to Chairman Eaton over the  
7 last month.

8 So in conclusion, I want to thank you all for  
9 your past support for this highly successful and valuable  
10 program and be happy to answer any questions.

11 CHAIRMAN EATON: Questions?

12 BOARD MEMBER PAPARIAN: Mr. Chairman, the  
13 Coastal Commission is a wonderful agency and this is a  
14 wonderful program. I would like to move adoption of  
15 Resolution 2000-257, approval of the scope of work for  
16 phase two of the boating clean and green campaign.

17 BOARD MEMBER MOULTON-PATTERSON: Second.

18 CHAIRMAN EATON: I just have one question before  
19 we move. How much is fresh water going to be in phase  
20 two? Because with MTBE and some of the other items that  
21 are now coming up in fresh water, finding our way in will  
22 we move in that area as well? I know the first phase  
23 dealt exclusively on some of the oceans and so on and so  
24 forth, but some of the other marinas where we need to  
25 find fisherman fleets and that sort of thing. I think it

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1 would be very important to place some importance on fresh  
2 water as well. Even though you've showed us this is a  
3 very critical program, I also think they should get more  
4 money and I would like to see facilities placed in  
5 marinas. It's one thing to identify them, it's another  
6 thing to say we're at the boat ramps. Many of these  
7 marinas, many of these facilities, I think we have given  
8 money to those facilities for recycling oil. I think  
9 that's the next phase.

10 Study is fine, but the implementation phase is  
11 what we're looking for and any help you could do, we  
12 would really appreciate it in that respect.

13 MS. GORDON: I absolutely agree with you that  
14 implementation is necessary and, in fact, we haven't --  
15 we've tried our best in addition to doing all these other  
16 tasks to see through some implementation of these  
17 facilities and we have assisted a number of marinas and  
18 used oil program grantees in their efforts to implement  
19 bilge pump-out facilities and used oil collection as well  
20 as oil change programs, and we have done that in a number  
21 of instances. We have helped out in -- with two bilge  
22 pump-out facilities and about ten used oil collection  
23 programs through local grantees, and so we have actually  
24 been working on implementation.  
25 When it comes to the issue of fresh water

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1 versus salt water or coastal areas, we actually have not  
2 made a huge distinction in what type of areas that we --  
3 in which we conduct outreach. What we found in our  
4 research is that at the boat shows, about half of the  
5 coastal boaters -- boaters who have their boats  
6 registered in coastal jurisdictions actually go inland to  
7 do their boating. They use the rivers and inland lakes.  
8 And in the inland areas, about half of those boaters are  
9 in the coastal areas.  
10 The largest boat shows are in the coastal  
11 areas, so by conducting outreach at boat shows, we are  
12 really talking to a combined audience of inland and  
13 coastal boaters. In addition, our dock walkers, we've  
14 trained 180 dock walkers. They come from both inland and  
15 coastal areas through the Coast Guard Auxiliary, and they  
16 are conducting outreach through dock walkers in inland  
17 and coastal areas.  
18 The Coastal Commission focuses most of its  
19 education and outreach in the coastal area, but in  
20 working with partners like the Coast Guard Auxiliary,  
21 which has a huge corps of volunteers, by training them  
22 those volunteers and those partners are going out to  
23 inland areas and doing education.

24           CHAIRMAN EATON: We've got a motion before us.  
25 Madam Secretary, please call the roll.

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1       Excuse me. Mr. Paparian, you moved and it was  
2 seconded by Ms. Moulton-Patterson. I should identify the  
3 motion. Resolution 2000-257.

4 Madam Secretary, please call the roll.

5               BOARD SECRETARY: Board Members Jones.

6               BOARD MEMBER JONES: Aye.

7               BOARD SECRETARY: Medina.

8               BOARD MEMBER MEDINA: Aye.

9               BOARD SECRETARY: Moulton-Patterson.

10              BOARD MEMBER MOULTON-PATTERSON: Aye.

11              BOARD SECRETARY: Paparian.

12              BOARD MEMBER PAPARIAN: Aye.

13              BOARD SECRETARY: Roberti.

14              BOARD MEMBER ROBERTI: Aye.

15              BOARD SECRETARY: Chairman Eaton.

16              CHAIRMAN EATON: Aye.

17              Item Number 32.

18              MS. GARRETT: Good afternoon, Chairman and Members of the  
19 Board. For the record, I'm Debbra Garrett, Manager of the  
20 Financial Assistance Branch.

21 Agenda Item 32, entitled consideration of  
22 approval of time extensions for grant agreements for the  
23 fifth cycle used oil block grants, fiscal year 1997-1998  
24 and 1999-98 will be presented by Sara Avila.

25              MS. AVILA: This item is a request for time

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1 extension for year two and three of the fifth cycle of  
2 the used oil block grant program. In June of 1999, there  
3 was an administrative change to the payment process which  
4 resulted in grantees receiving any remaining funds from  
5 year one and year two and all of three year as an advance  
6 payment. Advance payments were disbursed in August of  
7 1999.

8 Staff is recommending a time extension for the  
9 second and third cycle to June 30th, 2002 to accommodate  
10 the administrative change which would allow grantees to  
11 complete the programs.

12 Do you have any questions?

13 CHAIRMAN EATON: You know I have a question with  
14 regard to this item because the Board made a  
15 determination that we shouldn't grant extensions, and the  
16 contracts show up and they've got the extensions in them.  
17 I understand why there was a question about it, but I do  
18 believe that should be brought back to the Board. That  
19 is not a staff decision when the Board voted to change a  
20 policy, and that policy is basically not put in place but  
21 rather put into a contract, which is contrary to the  
22 policy.

23 Is this the last time that's going to occur or  
24 are we going to have continuing extensions as it relates  
25 to this Board policy? Part of the problem is that this

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1 money was lagging on this year after year after year, and  
2 none of the local jurisdictions were getting the money.  
3 So we pushed the money out the door and now we're getting  
4 extensions so we're back in a different phase again.  
5 We're granting extensions again. We've got to use the  
6 money or lose it. There's larger jurisdictions that can  
7 utilize this money when smaller jurisdictions can't use  
8 it.

9 It was very upsetting to find out that we  
10 adopted a policy and the next thing you know it shows up  
11 in a contract. That is just not keeping in the spirit of  
12 that. So do I have the assurances of at least whomever  
13 is responsible for the program there will be no more  
14 extensions after this as it relates to these extensions?  
15 MS. GARRETT: Yes, Mr. Chairman. All of the  
16 staff have been meeting and do absolutely concur that our  
17 focus will be to move forward within the three-year time  
18 frame.

19 CHAIRMAN EATON: Okay.

20 BOARD MEMBER MEDINA: I'd like to move this  
21 item, Mr. Chair.

22 CHAIRMAN EATON: Okay.

23 BOARD MEMBER MOULTON-PATTERSON: I'll second it.

24 CHAIRMAN EATON: Mr. Medina moves and  
25 Ms. Moulton-Patterson seconds that we adopt Resolution

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1 2000-255.

2 Madam Secretary, please call the roll.

3 BOARD SECRETARY: Board Members Jones.

4 BOARD MEMBER JONES: Aye.

5 BOARD SECRETARY: Medina.

6 BOARD MEMBER MEDINA: Aye.

7 BOARD SECRETARY: Moulton-Patterson.

8 BOARD MEMBER MOULTON-PATTERSON: Aye.

9 BOARD SECRETARY: Paparian.

10 BOARD MEMBER PAPARIAN: Aye.

11 BOARD SECRETARY: Roberti.

12 BOARD MEMBER ROBERTI: Aye.

13 BOARD SECRETARY: Chairman Eaton.

14 CHAIRMAN EATON: Aye.

15 Item Number 33. I would like for this to be the

16 last item for this evening and we'll go into closed

17 session.

18 Mr. Chandler.

19 MR. CHANDLER: Yes.

20 BOARD MEMBER JONES: Mr. Chairman.

21 CHAIRMAN EATON: Mr. Jones.

22 BOARD MEMBER JONES: This one may take a little

23 while, maybe not. I would like to get an idea of --

24 we've got 16 items left for tomorrow. Some of them are

25 going to take an awful lot of time. One is the ash issue



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1 that's going to take an awful lot of debate, and I know  
2 that some people thought we would be out of here by noon.  
3 And I'm starting to think we won't be out of here for  
4 days.

5 I want to get resolution on Item Number 58  
6 before Members start to leave. I would hope we could get  
7 that item heard tonight. If we can't get it heard  
8 tonight, I want to make a motion to move the item from  
9 its current spot to the last item heard today.

10           CHAIRMAN EATON: What's your prerogative,  
11 Mr. Jones? All I know is that in the Bagley-Keene, the  
12 item is set and the whole idea is to give proper notice  
13 for an item. There are other options available. I have  
14 no problem moving through the agenda. We're moving  
15 pretty well today. You're free to do whatever you need  
16 to do.

17           BOARD MEMBER JONES: Mr. Chairman, I want to  
18 move that we hear Item Number 58 as our last item  
19 tonight.

20           BOARD MEMBER MEDINA: I would like to second  
21 that motion.

22           CHAIRMAN EATON: All right. Mr. Jones moves and  
23 Mr. Medina seconds that Item Number 58 be moved up to.  
24 this evening.

25 Madam Secretary, please call the roll.

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1 BOARD SECRETARY: Board Members Jones.

2 BOARD MEMBER JONES: Aye.

3 BOARD SECRETARY: Medina.

4 BOARD MEMBER MEDINA: Aye.

5 BOARD SECRETARY: Moulton-Patterson.

6 BOARD MEMBER MOULTON-PATTERSON: Aye.

7 BOARD SECRETARY: Paparian.

8 BOARD MEMBER PAPARIAN: Aye.

9 BOARD SECRETARY: Roberti.

10 BOARD MEMBER ROBERTI: Aye.

11 BOARD SECRETARY: Chairman Eaton.

12 CHAIRMAN EATON: No.

13 All right. Item Number 33.

14 MS. JORDAN: Good afternoon, Chairman and

15 Members of the Board. Terry Jordan, acting Deputy

16 Director of the Administration and Finance Division.

17 will be making a presentation on agenda Item Number 33,

18 consideration of approval of reallocation of savings from

19 fiscal year 1998-99 and 1999-2000 recycling market

20 development revolving loan account, R1'4DZ, to fund

21 additional consulting and C&P concepts.

22 As you may recall, I discussed at the April

23 Board meetin9 we reported on the status of the 1998-1999

24 and 1999-2000 RMDZ savings and C&P services. At that

25 time it was decided that we would bring forward this

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1 reallocation item for the savings within RMDZ for C&P  
2 services.

3 As you may remember, in April we stated that the  
4 savings would likely change as the status of the projects  
5 were evolving. As such, some of the changes that have  
6 been included in April were that an online statewide  
7 telephone directory was approved which equated to  
8 \$100,000 and that was within the 1998-99 savings. In  
9 addition, Concept 53 for 1998-99, which was the trade  
10 show, an event that was just recently held last week,  
11 \$30,000 we had reflected as savings in 1998-99 which did  
12 need to be used for the contract itself.

13 Therefore, as we stated in April the overall  
14 savings appeared to be around \$228,000. Currently  
15 between the two years it's \$98,630. However, as of this  
16 morning's items, Item Number 12 resulted in \$40,068 in  
17 savings and, therefore, that brings the change to the  
18 overall savings for RMDZ for the C&P services to  
19 \$138,698.

20 I would like to ask the board's indulgence.

21 With the trade show, the contract -- and of course the  
22 trade show is very successful. I've been informed that  
23 there is a need for an augmentation to that contract for  
24 \$5,791, and I would request that the Board consider and  
25 approve to augment contract IWM-C8104 through this

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1 reallocation item. If that is approved, that would bring  
2 the total down to \$132,907 in actual savings.  
3 There are eight items or eight concepts within  
4 this reallocation item. Those total \$504,000. We  
5 obviously have a little bit of work here that we need to  
6 do in taking a look at the items that obviously present  
7 Board priority. To address options, obviously, of how we  
8 might fund those, the Board may approve all of them, use  
9 the current year and prior year savings in RMDZ, as well  
10 as allocating 2000-2001 RMDZ funding. The Board may  
11 prioritize and approve additional concepts, these  
12 additional concepts, that may be adequately funded from  
13 the savings. The Board could also defer some or all of  
14 the additional concepts to the budget year, direct staff  
15 to include them as fiscal year 2000-2001 C&P concepts.  
16 And lastly, the Board could reevaluate existing approved,  
17 although as of yet uncontracted, fiscal year 99-2000 RMDZ  
18 concepts, incorporate those available savings into this  
19 reallocation item.  
20 As noted in option four, of the previously  
21 Board-allocated 99-2000 C&P concepts, there is only one  
22 project without a full plan of activity at this time, so  
23 the Board could obviously consider that one as a  
24 potential source of available RMDZ funds for redirection.  
25 That concept is Number 53, sustainable building for low

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1 to moderate income grants. In attempting to determine if  
2 savings may be available as this item has not yet come  
3 before the Board, there was originally allocated \$500,000  
4 for the concept and \$55,000 -- approximately \$55,000 has  
5 been expended leaving \$444,090 available at this time.

6 As I said before, we're not aware of a lot of  
7 activity in this area. I know that there have been  
8 meetings and planning sessions, but my understanding is  
9 they're not at this time very far along the way. One of  
10 the things that the Board might consider is pushing this  
11 particular concept to the fiscal year 2000-2001, if they  
12 were to so choose to use the funds that are available  
13 here.

14 What I would like to do now, if the Board would  
15 like to do this, is go through each of these concepts and  
16 they are in your item.

17           CHAIRMAN EATON: First off, why don't we ask if  
18 there's any objection to any of them, perhaps, for the  
19 sake of time since we do have a closed session. Members,  
20 I think they should be fairly familiar with each of the  
21 projects.

22 MS. JORDAN: So there are the eight items for  
23 the total of \$504,000

24           CHAIRMAN EATON: The only thing that's different  
25 on that chart would be the augmentation for the trade

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1 show.

2 MS. JORDAN: Actually, it is not on this chart.

3 CHAIRMAN EATON: I understand that. That would  
4 be the only change to the chart?

5 MS. JORDAN: There is one other change and that  
6 is that this item is revised as you notice. When the  
7 item first came out reflecting \$499,000 total, there has  
8 been a change in the green resource center of an  
9 additional \$5,000. This is the total change with the  
10 exception of the augmentation to the trade show.

11 CHAIRMAN EATON: Is there any green building  
12 grant money in here, augmentation?

13 MS. JORDAN: I don't believe so.

14 CHAIRMAN EATON: I'm asking if there's any  
15 additional funds for green building grants.

16 MS. JORDAN: Any new concepts for green  
17 building?

18 CHAIRMAN EATON: New concept to augment .what  
19 we've already given. I think we had a Concept Number 78,  
20 green building grants. Is there money available to  
21 augment that?

22 MS. JORDAN: I don't believe so.

23 CHAIRMAN EATON: You don't believe there's any  
24 money left or you don't believe there's any?

25 BOARD MEMBER JONES: I think Berkeley is a green

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1 building.

2           CHAIRMAN EATON: Additional funds available for  
3 green building grants to augment.

4           BOARD MEMBER JONES: Other than the \$38,000. I  
5 got that.

6 MS. JORDAN: Excuse me for just one second.

7 If you were to redirect the entire \$444,000 to  
8 offset this plus the savings that we're reflecting up on  
9 the screen, there would be approximately \$78,788  
10 remaining to be able to work towards the low-moderate  
11 income grants. Does that address --

12           CHAIRMAN EATON: What would we have to do to do  
13 that? You said we have to redirect?

14 MS. JORDAN: Yes. You're basically changing the  
15 priority of that particular concept and redirecting those  
16 funds into these additional funds or the additional  
17 concepts.

18           CHAIRMAN EATON: Each and every one of these  
19 items --

20 MS. JORDAN: Do you want to go through and vote  
21 on each particular item by itself?

22           CHAIRMAN EATON: Take the package. I would just  
23.. like to add if we could redirect the money as you propose  
24 into the green building grant.

25 MS. JORDAN: Certainly.

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1           BOARD MEMBER JONES: First do we have to  
2 redirect the \$440,000? First we have to redirect  
3 \$440,000.

4           CHAIRMAN EATON: Correct.

5           BOARD MEMBER JONES: Okay.

6 MS. JORDAN: The monies that I just quoted you  
7 with regards to what would be left in the green building  
8 grants included if you choose to augment the trade show.

9           BOARD MEMBER JONES: Includes that?

10 MS. JORDAN: \$72,000.

11          CHAIRMAN EATON: You would have to redirect  
12 money and put it into Concept Number 78.

13 MS. JORDAN: Correct. So we're asking two  
14 things. We're asking to redirect monies of the savings  
15 into the trade show 98-99 Concept 53, which has a  
16 contract attached to it, and we are also asking to  
17 redirect monies out of the green building low income  
18 grant, low-moderate income grant concept into these  
19 items.

20          BOARD MEMBER JONES: What was that concept  
21 number? Do you remember? I'm looking for it on this  
22 sheet, the one that we have to redirect.

23 MS. JORDAN: Sustainable building grant for low  
24 to moderate income is actually Concept 53 in 99-2000. So  
25 we would be redirecting monies out of that particular



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1 concept to fund these.

2 BOARD MEMBER JONES: Mr. Chairman.

3 CHAIRMAN EATON: Mr. Jones.

4 BOARD MEMBER JONES: I would like to move that  
5 we redirect the \$440,000, whatever it is, that 400-plus  
6 thousand out of Concept Number 53 to be redirected by  
7 this Board. We have to make two motions? One to get  
8 money --

9 CHAIRMAN EATON: That would be the proper way to  
10 do it, to redirect the money in one motion and then  
11 allocate in the second.

12 BOARD MEMBER JONES: Gotcha.

13 MS. JORDAN: Could I also request that the  
14 Board act on the \$5,791 for the trade show.

15 BOARD MEMBER JONES: In the next motion.

16 MS. JORDAN: Thank you.

17 CHAIRMAN EATON: We haven't done the  
18 reallocation yet.

19 BOARD MEMBER MOULTON-PATTERSON: Second.

20 CHAIRMAN EATON: Mr. Jones moves and  
21 Ms. Moulton-Patterson seconds that we redirect the sum of  
22 \$444,090.

23 MS. JORDAN: I apologize. I had the number and  
24 I don't have it with me at the moment, but we don't want  
25 to redirect the entire amount and I'm trying to verify

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1 what you do want to redirect out of the \$444,000.

2 CHAIRMAN EATON: We have to redirect the entire  
3 amount.

4 BOARD MEMBER MOULTON-PATTERSON: It's \$444,090.

5 MS. JORDAN: That is the entire amount. If  
6 we're to leave \$72,000 -- okay.

7 CHAIRMAN EATON: You've got to redirect all the  
8 money. Otherwise you never get to where your want to go.  
9 Isn't that correct? Otherwise, you're never going to get  
10 there.

11 MS. JORDAN: So it's \$444,090 that you're  
12 redirecting.

13 CHAIRMAN EATON: Correct. That's the motion.

14 Mr. Jones moves and Ms. Moulton-Patterson  
15 seconds.

16 Madam Secretary, please call the roll.

17 BOARD SECRETARY: Board Members Jones.

18 BOARD MEMBER JONES: Aye.

19 BOARD SECRETARY: Medina.

20 BOARD MEMBER MEDINA: Aye.

21 BOARD SECRETARY: Moulton-Patterson.

22 BOARD MEMBER MOULTON-PATTERSON: Aye.

23 BOARD SECRETARY: Paparian.

24 BOARD MEMBER PAPARIAN: Aye.

25 BOARD SECRETARY: Roberti.

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1 BOARD MEMBER ROBERTI: Aye.

2 BOARD SECRETARY: Chairman Eaton.

3 CHAIRMAN EATON: Aye.

4 Okay. Now, Mr. Jones.

5 BOARD MEMBER JONES: Mr. Chairman, I would like  
6 to take the savings plus the \$444,090 of redirected funds  
7 and include -- add to this list \$5,000 --  
8 (Laughter)

9. CHAIRMAN EATON: \$5,791 to pay for the trade  
10 show.

11 BOARD MEMBER JONES: Right. And those items,  
12 and then redirect that portion of \$72,000 and something  
13 to Contract Number 78. Does that work?

14 MS. JORDAN: That works.

15 BOARD MEMBER MOULTON-PATTERSON: Second.

16 CHAIRMAN EATON: Mr. Jones moves and  
17 Ms. Moulton-Patterson seconds that we reallocate the  
18 money as proposed on the list that's here and be  
19 submitted to the court reporter, as well as the two  
20 additional items that the trade show as well as Concept  
21 Number 78.

22 Madam Secretary, please calm the roll.

23 BOARD SECRETARY: Board Members Jones.

24 BOARD MEMBER JONES: Aye.

25 BOARD SECRETARY: Medina.

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1 BOARD MEMBER MEDINA: Aye.

2 BOARD SECRETARY: Moulton-Patterson.

3 BOARD MEMBER MOULTON-PATTERSON: Aye.

4 BOARD SECRETARY: Paparian.

5 BOARD MEMBER PAPARIAN: Aye.

6 BOARD SECRETARY: Roberti.

7 BOARD MEMBER ROBERTI: Aye.

8 BOARD SECRETARY: Chairman Eaton.

9 CHAIRMAN EATON: Aye.

10 All right. Last item, Number 58.

11 Mr. Jones.

12 BOARD MEMBER JONES: Mr. Chairman, this is going

13 to be viewed just about any way somebody wants to view

14 it. I view it --

15 CHAIRMAN EATON: Before you go on, Mr. Davis,

16 John Davis, I left him out again. Before you get there,

17 is he still here? I'm sorry.

18 Mr. Jones.

19 BOARD MEMBER JONES: Mr. Chairman, this is --

20 this item is to elect a new Chair effective on June 1st,

21 and I am going to make a motion as to putting a name in

22 motion -- a name in for that vote, but before I do, as

23 the senior sitting member on this Board as part of the

24 Davis administration, it's appropriate for two reasons, I

25 think, for me to make the motion.

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1 One is my long-standing appreciation of our  
2 current Chairman's incredible job that he has done to run  
3 this ship for the last 13 or so months, which I think  
4 took this Waste Board -- having had to deal with this  
5 Waste Board since its inception, took this Waste Board  
6 probably further than any single bounds that anybody has  
7 ever taken this Waste Board and has a lot to be proud of,  
8 has a lot to -- I think when people walk into the Cal/EPA  
9 building for the next 40 or 50 years and they stand on  
10 recycled-content carpet as they walk into that building,  
11 that's only there because of the stewardship of Dan Eaton  
12 and the resolve of this Board.

13 And I think a lot of things that have come in  
14 the way of this Board have come because all of us, in our  
15 own way, both Chairmen and Board Members, have stepped  
16 up, with the help of staff because none of this happens  
17 without the staff, to get an awful lot of things done  
18 right.

19 And I say it from the bottom of my heart. I've  
20 enjoyed the last three years, two years, year and a half,  
21 because I was with somebody that was as equally engaged  
22 as I am and that engagement meant that the level raised,  
23 the bar got raised. And as a legislative appointee, it  
24 is tough sitting in -- in a -- in an administration's  
25 position as Chair because you basically answer to two

1 captains.

2 This Board is now flush with its -- with the  
3 make-up as it was intended, and while change is always  
4 something that we need to embrace, I think the respect  
5 for a job well done is also something that has to be  
6 embraced, and this change is not a reflection of effort  
7 or commitment as much as it is a change of a new  
8 direction, and I have absolutely enjoyed -- I told  
9 somebody one time I was loyal to Pennington, I was loyal  
10 to Eaton, I will be loyal to the next Chairman and I'll  
11 be loyal to the Chairman after that because that's the  
12 way things work. And I think everybody needs to show  
13 that loyalty and that respect.

14 So with that, thank you for allowing me to go on  
15 a little bit. I'm going to put a name into consideration  
16 as the new Chairman to be effective June 1st that I think  
17 will do a good job, that will not -- that will bring a  
18 different style than the style we've experienced for the  
19 last year and a half or so. Doesn't mean either style is  
20 right or wrong, it just means it's a different style.

21 I am going to put into consideration the name  
22 for the new Chairman of Linda Moulton-Patterson, the  
23 first Governor Davis appointee to this Board.

24 BOARD MEMBER MEDINA: I would like to second  
25 that motion.

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1           CHAIRMAN EATON: All right. Mr. Jones moves and  
2 Mr. Medina seconds that Ms. Moulton-Patterson be the next  
3 Chair.

4 Madam Secretary, please call the roll.

5           BOARD SECRETARY: Board Members Jones.

6           BOARD MEMBER JONES: Aye.

7           BOARD SECRETARY: Medina.

8           BOARD MEMBER MEDINA: Aye.

9           BOARD SECRETARY: Moulton-Patterson.

10          BOARD MEMBER MOULTON-PATTERSON: Aye.

11          BOARD SECRETARY: Paparian.

12          BOARD MEMBER PAPARIAN: Aye.

13          BOARD SECRETARY: Roberti.

14          BOARD MEMBER ROBERTI: Aye.

15          BOARD SECRETARY: Chairman Eaton.

16          CHAIRMAN EATON: Sufficient votes.

17 Congratulations.

18          BOARD MEMBER MOULTON-PATTERSON: Thank you,

19 Mr. Eaton.

20          CHAIRMAN EATON: First act, adjourn the meeting  
21 tonight and we can go into closed session.

22          BOARD MEMBER JONES: No, no. She doesn't start  
23 until the first.

24          CHAIRMAN EATON: She can do it on my behalf.

25          BOARD MEMBER JONES: Okay.

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1           BOARD MEMBER MOULTON-PATTERSON: Thank you very  
2 much, Mr. Jones, and I just want to say that it will be  
3 an honor and a privilege to serve as your Chair. And  
4 Mr. Eaton, I thank you for your leadership. I've learned  
5 a great deal from you. This Board represents a diversity  
6 of interests. I plan to meet with each of my Board  
7 Members so that we can forge a working relationship that  
8 allows for these differences of opinion in a cooperative  
9 environment.  
10 At our June meeting, I will present my thoughts  
11 about the challenges and opportunities that are ahead of  
12 us, and I think that we can work together very  
13 cooperatively and again, I sincerely thank you for this  
14 privilege. And Danny, I thank you for your leadership.  
15 And I will adjourn this meeting, if you'd like me to.

16           CHAIRMAN EATON: Please.

17           BOARD MEMBER MOULTON-PATTERSON: And we'll go  
18 into closed session.

19           CHAIRMAN EATON: Thank you. We will convene at  
20 9:30 tomorrow morning here.

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STATE OF CALIFORNIA

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I, Tern Emery, CSR No. 11598, a Certified

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Shorthand Reporter in and for the State of California, do

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hereby certify:

7

That the foregoing proceedings were taken down

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by me in shorthand at the time and place named therein

9

and were thereafter transcribed under my supervision;

10

that this transcript contains a full, true and correct

11

record of the proceedings which took place at the time

12

and place set forth in the caption hereto.

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I further certify that I have no interest in

16

the event of this action.

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EXECUTED this 19th day of June, 2000

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\_\_\_\_\_  
TERRI EMERY

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